

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA, ) CR. NO. 19-00099-DKW-KJM  
 )  
Plaintiff, ) Honolulu, Hawaii  
 )  
vs. ) April 30, 2024  
 )  
MICHAEL J. MISKE, JR., ) FURTHER JURY TRIAL - DAY 60  
 )  
Defendant. ) (TESTIMONY OF GOVERNMENT'S  
 ) WITNESS TYSON SAGIAO)

---

PARTIAL TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE DERRICK K. WATSON  
CHIEF UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Government: MARK A. INCIONG, AUSA  
MICHAEL DAVID NAMMAR, AUSA  
AISLINN AFFINITO, AUSA  
Office of the United States Attorney  
Prince Kuhio Federal Building  
300 Ala Moana Boulevard, Suite 6100  
Honolulu, Hawaii 96850

For the Defendant: LYNN E. PANAGAKOS, ESQ.  
841 Bishop Street, Suite 2201  
Honolulu, Hawaii 96813

MICHAEL JEROME KENNEDY, ESQ.  
Law Offices of Michael Jerome  
Kennedy, PLLC  
333 Flint Street  
Reno, Nevada 89501

Official Court ANN B. MATSUMOTO, RPR  
Reporter: United States District Court  
300 Ala Moana Boulevard, Room C-338  
Honolulu, Hawaii 96850

Proceedings recorded by machine shorthand, transcript produced  
with computer-aided transcription (CAT).

## 1 I N D E X

2 WITNESS: PAGE NO.3 FOR THE GOVERNMENT:

4 TYSON SAGIAO

5 DIRECT EXAMINATION BY MS. AFFINITO 4

6 CROSS-EXAMINATION BY MR. KENNEDY 95

7 REDIRECT EXAMINATION BY MS. AFFINITO 135

8 RECROSS-EXAMINATION BY MR. KENNEDY 142

9

## 10 E X H I B I T S

11 Exhibits 2-107, 2-116 through 2-118 received  
12 received in evidence 24

13 Exhibit 2-117B received in evidence 27

14 Exhibit 2-116Q received in evidence 35

15 Exhibit 2-115 received in evidence 46

16 Exhibit 2-116R received in evidence 61

17

18

19

20

21

22

23

24

25

1 TUESDAY, APRIL 30, 2024

8:37 O'CLOCK A.M.

2 \* \* \* \* \*

3 (Start of partial transcript:)

4 (Open court in the presence of the jury.)

5 COURTROOM MANAGER: Criminal Number 19-00099-DKW-KJM,  
6 United States of America versus Michael J. Miske, Junior.

7 This case has been called for jury trial, Day 60.

8 Counsel, please make your appearances for the record.

9 MR. INCIONG: Good morning, Your Honor. Mark  
10 Inciong, Michael Nammar, and Aislinn Affinito for the United  
11 States. Also present are Special Agent Tom Palmer and Kari  
12 Sherman.

13 Good morning.

14 THE COURT: Good morning.

15 MR. KENNEDY: Good morning, Your Honor. Michael  
16 Kennedy with Lynn Panagakos, Michael Miske, Ashley King, and  
17 Josh Barry.

18 Good morning to each of you.

19 THE COURT: Good morning. You may be seated, first  
20 of all.

21 Good morning to our 16-person jury. Everyone's  
22 looking chipper this morning, right? The last day of April.  
23 So we're just about ready to get into a new month here  
24 tomorrow.

25 Mr. Inciong, the government, I gather, is ready for

1 its next witness?

2 MR. INCIONG: Yes, Your Honor.

3 The United States calls Ty Sagiao, and Ms. Affinito  
4 will be handling Mr. Sagiao.

5 THE COURT: All right.

6 COURTROOM MANAGER: Please raise your right hand.

7 TYSON SAGIAO, GOVERNMENT'S WITNESS, SWORN.

8 THE WITNESS: I do.

9 COURTROOM MANAGER: Thank you.

10 You may be seated.

11 THE COURT: Thank you.

12 COURTROOM MANAGER: Please state your full name,  
13 spelling your last name for the record.

14 THE WITNESS: Okay.

15 My name is Tyson Sagiao; T-Y-S-O-N. Last name is  
16 S-A-G-I-A-O.

17 DIRECT EXAMINATION

18 BY MS. AFFINITO:

19 Q Good morning. So where are you currently employed?

20 A I'm currently employed by the City of Kent Police  
21 Department in Kent, Washington.

22 Q Okay. And what is your title?

23 A I'm a technical detective with the Kent Police Department.

24 Q And how long have you been with the City of Kent?

25 A I've been with the City of Kent over 23 years.

1 Q And what are some of your duties as a technical detective?

2 A As a technical detective, I provide technical support to  
3 our homicide and violent crimes unit. That support could range  
4 from remote IP video surveillance, video forensics, vehicle  
5 tracking, historical cell site analysis and realtime cell phone  
6 surveillance.

7 I'm a certified vehicle forensic examiner since 2021, and  
8 I'm a certified technical investigator with the National  
9 Technical Investigators Association since 2015.

10 Q And are you also a task force officer with the FBI?

11 A I am.

12 Q And how long have you been a task force officer?

13 A Since approximately 2015.

14 Q And what is an FBI task force officer?

15 A As a local officer, I'm sworn in by the FBI and empowered  
16 to investigate violations of criminal federal law.

17 Q And are you part of a particular FBI task force?

18 A I am. I'm part of the Seattle Safe Streets Task Force in  
19 Seattle.

20 Q And what does the Seattle Safe Streets Task Force do?

21 A They primarily investigate crimes related to violent gangs  
22 in the Seattle metropolitan area, such as narcotics  
23 trafficking --

24 Oh, I'm sorry. So sorry.

25 -- such as narcotics trafficking, firearms violations,

1 armed robberies, and fugitive investigations.

2 Q Do you have any other duties as a task force officer?

3 A I do. I'm also a member of the FBI's CAST team, or  
4 Cellular Analysis Survey Team.

5 Q And how long have you been a part of CAST?

6 A I became certified CAST in September of 2022.

7 Q And what does CAST do?

8 A So -- oh, sorry. The Cellular Analysis Survey Team was  
9 formed in 2010 in response to a growing need for historical  
10 cell site analysis. Three of the primary functions of CAST is  
11 to analyze, interpret, and map call detail records, both  
12 historically and in realtime situations, such as a missing  
13 person's.

14 we also provide courtroom testimony, and we also provide  
15 training to local, state, and federal law enforcement  
16 officials.

17 Q Okay. So you mentioned historical cell site analysis.  
18 what is that?

19 A Historical cell site analysis is an analysis of call  
20 detail records in order to approximate the general location of  
21 a particular device during a particular time.

22 Q And what are call detail records?

23 A So call detail records are generated by the carrier. And  
24 when I say "carrier," I mean like your cell phone company. It  
25 looks a lot like your cell phone bill that you may get. The

1 only difference is we also get the cell -- cell tower  
2 information that was associated with those respective  
3 transactions.

4 Q So you said it's -- it's like your cell phone company.  
5 These are companies like AT&T, Sprint, T-Mobile, Verizon, that  
6 kind?

7 A Yes.

8 Q Okay. And how did you become a CAST member?

9 A So -- pardon me.

10 In order to become CAST-certified, there's several stages  
11 of training and evaluation that are involved. The process  
12 takes about a year and a half to two years to complete. It  
13 starts with a basic course, which is Introduction to Historical  
14 Cell Site Analysis and Carrier Records.

15 The next course is the advanced course, and it builds on  
16 what you learned in basic, but it also introduces advanced  
17 techniques in identifying and locating cellular devices.

18 If you make it through advanced, then you move on to what  
19 is called the Critical Incident Readiness Assessment. We call  
20 it CIRA. This is an evaluation of your ability to apply the  
21 skills and the knowledge that you've learned up and to that  
22 point by going to several scenarios, exigent-type scenarios  
23 that are based on actual cases worked by other CAST members.

24 If you make it through CIRA, then you go into the  
25 certification process, which is approximately one month long.

1 It's broken up into two two-week blocks. In the first  
2 two weeks, we receive training from representatives from the  
3 law enforcement relations group and engineers from major U.S.  
4 carriers, such as AT&T, T-Mobile, Verizon, and U.S. Cellular.  
5 They provide us training on their records, how they process  
6 legal requests, and also details about their network.

7 The second part of that first block of certification, we  
8 receive approximately 40 hours of training from professors from  
9 the Florida Institute of Technology. They provide us training  
10 in radio frequency theory, cellular infrastructure, and  
11 cellular technologies.

12 That first two-week block culminates with a -- culminates,  
13 sorry, with a written exam. If you pass the written exam, then  
14 you move on to the final block.

15 In the last block, you continue to learn various tasks  
16 that are assigned with being a member of CAST, such as how to  
17 use mapping software, how to conduct drive testing and other  
18 tasks.

19 That whole process culminates with a final evaluation,  
20 which is a scenario in which you are provided call detail  
21 records and you analyze, interpret, and map those, produce  
22 report, and then you present your findings and conclusions in a  
23 moot court setting.

24 Q Okay. So -- so that's -- that's sort of the initial  
25 training you received to be certified; is that right?



1 A That's correct.

2 Q Okay. So do you receive any ongoing training after that  
3 initial certification?

4 A We do. So every year we are required to recertify.

5 During recertification, again, members from -- or  
6 representatives from the law enforcement relations group and  
7 engineers from the major U.S. carriers, AT&T, T-Mobile,  
8 Verizon, U.S. Cellular, and in this last year DISH wireless,  
9 they come in and they provide us refresher training, and then  
10 they also provide us updates.

11 I have also received training outside of that mandatory  
12 recertification from engineers at Apple about various features  
13 and aspects of iOS devices; and being in the Seattle area where  
14 T-Mobile has their national headquarters, I've had discussions  
15 and training with those individuals as well from various  
16 departments, to include engineering, about various capabilities  
17 regarding the T-Mobile network.

18 Q And have you given training and historical cell site  
19 analysis to others?

20 A I have, yes.

21 Q And what kind of training is that?

22 A The basic course that I had mentioned. It's a two-day  
23 course. We provide that free to law enforcement. And I've  
24 provided that training quite a few times in Washington State,  
25 in Oregon, in Arizona, and in Alaska.

1 Q And so have you worked on investigations where you were  
2 called upon to determine the location of a cell phone?

3 A I have.

4 Q And about how many times have you had to do that?

5 A Quite a few times. Several times. Dozens. Yes. Sorry.

6 Q And do you draft reports documenting your findings?

7 A Not in every single task that we're asked to look at cell  
8 phone records, no.

9 Q Okay. So -- well, I guess, approximately how many reports  
10 have you drafted?

11 A I've probably drafted dozens of reports.

12 Q Okay. And why do -- why don't all analyses require  
13 reports?

14 A I had mentioned exigent scenarios or search and rescue.  
15 Obviously, in those situations, a lot of times we are just  
16 trying to get search and rescue efforts to a particular area.  
17 So taking time to draft a map sometimes takes a little bit of  
18 time.

19 So that's one reason that we may not always draft a map.  
20 Other times, the analysis may just be able to corroborate maybe  
21 other details or -- or eliminate other suspicions that the  
22 investigator may have.

23 Q And just as a ballpark figure, approximately how many sets  
24 of call detail records have you analyzed as a member of CAST?

25 A I would guess hundreds, if not over a thousand.

1 Q And can you give just a couple examples of your experience  
2 with historical cell site analysis?

3 A Sure. Pardon me.

4 Last year, I was one of several members of CAST who  
5 assisted in the search and recovery efforts during the  
6 wildfires. During one particular occasion, I was able to  
7 identify an individual who was previously unaccounted for on  
8 the north side of Maui, using his call detail records.

9 Just February of last -- or this year, myself and another  
10 CAST member assisted with the recovery of a kidnapped  
11 seven-month-old who law enforcement believed was being smuggled  
12 out of the state. We used call detail records and other cell  
13 phone data to assist law enforcement in intercepting that car.

14 I have participated in realtime cell phone location  
15 analysis using test phones on AT&T, T-Mobile, and Verizon  
16 networks. During these tests, I was able to verify that the  
17 tower and sector, or the tower and the side of the tower, that  
18 the cell phone was using during calls and texts was accurately  
19 and consistent -- accurately reflected and consistent with the  
20 information that was in the call detail records, as well as  
21 what we knew about where the device was, because we were  
22 holding those devices.

23 Q And have you previously testified as an expert in court  
24 consistent with your training, experience, as you've just  
25 described for the jury?

1 A I have.

2 Q And how many cases have you testified in?

3 A Four total, but only three actual appearances.

4 Q Okay. So when you say "four total, but three," what does  
5 that mean exactly?

6 A So two of the court cases, they were assigned different  
7 court case numbers; however, the defendants were tried  
8 together. So even though I was testifying under two different  
9 cause numbers, they were being tried together.

10 Q And what were the areas on which you gave expert  
11 testimony?

12 A I have provided expert testimony in historical cell site  
13 analysis, in Internet protocol or IP addresses, in device  
14 identification and subscriber records.

15 Q And were your prior experiences testifying as an expert in  
16 state or federal court?

17 A They were -- they were all in state court. Washington  
18 State.

19 MS. AFFINITO: Okay. Your Honor, pursuant to Federal  
20 Rule of Evidence 702, the United States tenders FBI Task Force  
21 Officer Tyson Sagiao as an expert in the field of historical  
22 cell site analysis.

23 THE COURT: Any objection or voir dire?

24 MR. KENNEDY: No objection, Your Honor.

25 THE COURT: Without objection, Mr. Sagiao may testify

1 within the meaning of Federal Rule of Evidence 702, as  
2 requested by counsel, in the field of historical cell site  
3 analysis.

4 You may proceed.

5 BY MS. AFFINITO:

6 Q So at a general level, can you please tell the jury how a  
7 cellular network is set up?

8 A Sure. So a high-level overview. Basically you have your  
9 cell phone. Then there's a cell tower, and then you're going  
10 to have the carrier's network, or the backbone of that network.

11 Q Okay. So what is a cell tower?

12 A So a cell tower is the physical structure that holds the  
13 antennas that your cell phone wirelessly communicates with when  
14 you want to make a call, send a text, or -- or use data.

15 Q Okay. So then, I guess, how does a mobile device make a  
16 phone call, send a text, or use data?

17 A Yes. I'm sorry. I --

18 So if your phone is on, and it's connected to the network,  
19 your phone is constantly scanning its environment looking for  
20 the tower and the side of the tower that provides it the best  
21 signal.

22 When you dial a number on your phone and you press send,  
23 your phone is going to wirelessly send that call, or text, it's  
24 going to send it to that cell tower providing the best signal.  
25 That cell tower is going to route it through the carrier's

1 network. And when -- in the network, it'll basically get  
2 routed to the recipient of that call or text in the reverse  
3 order.

4 Q Okay. And is the process the same for receiving a call or  
5 a text?

6 A It is. Your phone is going to choose that tower and  
7 sector that has the best signal.

8 Q Okay. So what happens if a call or a text involves  
9 multiple phone carriers?

10 A It'll be routed -- I had mentioned earlier the network  
11 carrier. It'll just be routed from one network carrier's  
12 infrastructure to the next network carrier's infrastructure.

13 Q And are any cell phones commercially manufactured here  
14 within the District of Hawaii?

15 A No.

16 Q Okay. And so you mentioned this -- you mentioned best  
17 signal when it's connecting. So what determines -- I guess,  
18 what makes a signal the best signal?

19 A The best signal is the -- the strongest and the highest  
20 quality signal.

21 Q Okay. So is the best signal always going to come from the  
22 cell tower that's closest to the cell phone?

23 A Usually, but not always.

24 Q Okay. And why -- why not always?

25 A There are things that can affect that. Geography,

1 topography -- downtown Honolulu, big buildings -- they may  
2 affect that type of instance where the closest tower  
3 geographically isn't always the one that provides the best line  
4 of sight.

5 Q But typically, as a -- is the cell tower to which a phone  
6 connects usually the closest tower?

7 A It usually is.

8 Q Okay. Does the number of people trying to connect to a  
9 tower affect which tower your phone will connect to?

10 A It does not.

11 Q And why not?

12 A Your cell phone, again, best signal, it doesn't know that  
13 that tower's busy. I think we've all experienced situations  
14 where you try to call someone, and the call can't be completed  
15 or just nothing happens and you just start over, and then  
16 you're connected sometimes.

17 Q Do -- so do cell phone carriers keep records of the call  
18 activity?

19 A They do.

20 Q And do these records identify the towers to which a cell  
21 phone connects during a particular call, text, or data session?

22 A They do.

23 Q And are these the call detail records that you mentioned  
24 earlier?

25 A They are.

1 Q So, I guess, what do these call detail records tell you  
2 about a mobile device's location?

3 A So call detail records, they are a record of usage. And  
4 so they provide us the number -- well, let me back up. The  
5 date, time, the particular event -- and when I say "event,"  
6 call, text, or data session.

7 Date and time of those events, the number calling who. So  
8 like an originating number and a terminating number. And then  
9 we also get cell phone location information, and basically  
10 that's the tower and the side of the tower that facilitated  
11 that particular event.

12 Q So with these records, are you able to determine exactly  
13 where a phone is located at the time of a call or text?

14 A I am not.

15 Q Okay. So -- and can you see a cell phone location if the  
16 phone is not being used?

17 A You -- no, we cannot. We usually have to have cell site  
18 location information.

19 Q Okay. Is there, I guess, a certain range within a cell  
20 tower that a phone has to be located in order -- in order to  
21 connect to that tower?

22 A Sure. You have to be within the coverage area of a cell  
23 tower. And when I say "coverage," it's within the area of that  
24 tower's radio frequency signals. So you would have to be  
25 within the area of that specific tower and side of the tower in



1 order for that particular event to have been recorded in that  
2 manner.

3 Q And how large is the coverage area of a cell tower?

4 A It varies. You're going to see much larger coverage areas  
5 in rural areas, and you will likely see much smaller coverage  
6 areas in urban areas.

7 Q Okay. So this urban versus rural distinction, if a  
8 phone -- does a phone --

9 MS. AFFINITO: Sorry. Strike that.

10 BY MS. AFFINITO:

11 Q would a phone typically be closer to a tower in a -- in an  
12 urban area than it might need to be in -- in a rural area?

13 A I would expect to find a phone closer in an urban area  
14 than I would a rural area to the tower geographically, yes.

15 Q Okay. But so -- but, ultimately, the phone has to be  
16 within some fixed distance of a cell tower in order to  
17 communicate with it?

18 A I don't know about fixed distance so much as within the  
19 coverage area in order for that cell tower and that side of the  
20 tower to have serviced that phone.

21 Q Okay. And do the coverage areas of different cell towers  
22 overlap at all?

23 A Absolutely, they do. Most of the time, yes.

24 Q To what extent do they overlap?

25 A To the extent that when you move as you're talking on the

1 phone or using your phone that your calls don't drop. That's  
2 pretty much the extent of where that coverage needs to occur.

3 Q So do these call detail records tell you anything about  
4 who is using the phone at the time of a call, text, or data  
5 session?

6 A They do not.

7 Q But they do help you approximate the location of a device?

8 A They do, yes.

9 Q Okay. And can you determine whether a device is moving  
10 over time using these call detail records?

11 A Sure. In some instances, if we are looking at particular  
12 events within the call detail records, and we can see that a  
13 call -- I'll give an example that a call starts at one time and  
14 ends at a second.

15 If the carrier provided the starting tower and the ending  
16 tower -- or some carriers -- well, one carrier will actually  
17 provide the towers in between. We can conclude that as that  
18 call traveled through the area, that it was using different  
19 towers and sides of the tower during that time.

20 Q So what you just described, that was if you changed towers  
21 within a single call; is that right?

22 A Correct.

23 Q So can you also tell if a device is moving across  
24 different calls or different texts or different data sessions?

25 A Sure. If we can -- if the carrier provides us with the

1 cell site location information, as we analyze those records, we  
2 can conclude whether or not a call started and ended on the  
3 same tower and side of tower or if it moved.

4 Q Okay. And so what information do you use to conduct a  
5 historical cell site analysis?

6 A So we need the call detail records, which provides all  
7 that information I just spoke to. We also need a tower list,  
8 which is a list that's maintained by the carrier that provides  
9 information about the location and characteristics of the  
10 towers in their network.

11 we also need locations and dates and times of -- of  
12 reference that we can compare those records to.

13 Q Okay. So you mentioned the tower lists are maintained by  
14 the carrier. Are the call detail records also maintained by  
15 the carrier?

16 A Yes, they are.

17 Q And you mentioned sort of locations and dates and times.  
18 why are those needed?

19 A we need some type of comparative value, otherwise some of  
20 these records are incredibly voluminous. They can be thousands  
21 of pages. And so we have to be able to compare those records  
22 or -- or excerpts from those records to dates and times and  
23 locations of interest. Otherwise, it's -- we're just looking  
24 at thousands of lines of data.

25 Q And who provides that information to you?

1 A The -- well, we -- we are provided the information for our  
2 analysis from the investigators.

3 Q And so then how do you use all of this information, the  
4 call detail records, the tower lists, and these locations and  
5 dates and times for your analysis?

6 A Sure. I take the call detail records, the tower  
7 information, the location, and date and time, and I make those  
8 comparisons and I map out those -- those conclusions on where I  
9 approximate a device to be during a particular date and time.

10 Q And how long are call detail records typically kept by  
11 carriers?

12 A It varies by carrier. Currently, AT&T keeps them the  
13 longest, for five years. T-Mobile for two years. Verizon for  
14 one year.

15 Q And do carriers also store -- or do carriers store the  
16 contents of text messages or voicemails?

17 A Verizon keeps text message content now. AT&T keeps it as  
18 well currently, but it's incredibly perishable information.  
19 And Verizon probably keeps it the longest. So that's  
20 approximately three to five days. So if you don't preserve it  
21 within three to five days, you've lost that content.

22 Q Okay. So a carrier cannot retrieve the contents of those  
23 texts or voicemails outside of that window?

24 A No.

25 Q Okay. And the longest any carrier keeps them is three to

1 five days?

2 A And that's Verizon. Correct.

3 Q So did you conduct a historical cell site analysis for  
4 this case in connection with the disappearance of Johnathan  
5 Fraser?

6 A I did.

7 Q And what were you asked to analyze?

8 A I was asked to analyze four phone numbers over the course  
9 of approximately two days, on July 30th and 31st, 2016.

10 Q And aside from conducting historical cell site analysis,  
11 did you have any role in the investigation into the defendant,  
12 Michael Miske?

13 A I did not.

14 Q Did you generate a report summarizing your historical cell  
15 site analysis regarding the disappearance of Johnathan Fraser?

16 A I did.

17 Q And what did you review and use in conducting your  
18 analysis?

19 A I was provided call detail records, carrier -- cell tower  
20 lists or tower lists made available by the carrier, and then  
21 those dates and times and locations that were provided to me by  
22 the -- the investigators.

23 Q Okay. I'd like to have you look at a few disks. These  
24 are labeled Exhibits 2-101, 2-116, 2-117, and 2-118 from the  
25 original list from the government.

1 Your Honor, may I approach?

2 THE COURT: 2-101?

3 MS. AFFINITO: 2-107. Apologies.

4 THE COURT: Go ahead.

5 BY MS. AFFINITO:

6 Q Do you recognize these disks that I just put in front of  
7 you?

8 A Yes, I do.

9 Q And what are they?

10 A These disks contain copies of the call detail records that  
11 I was asked to analyze in this case.

12 Q Okay. And so Exhibit 2-107, what telephone number is that  
13 for?

14 A (808) 745-9064.

15 Q And what is the carrier for that phone number?

16 A T-Mobile.

17 Q And for Exhibit 2-116, what is the phone number associated  
18 with that?

19 A (808) 476-9223.

20 Q What's the carrier associated with that?

21 A AT&T.

22 Q And then for Exhibit 2-117, what is the phone number?

23 A (808) 465-6074.

24 Q And what is the carrier?

25 A T-Mobile.

1 Q And then for Exhibit 2-118, what is the phone number?

2 A (808) 202-8799.

3 Q And what's the carrier for that one?

4 A Again, this is T-Mobile.

5 Q Okay. So do each of these include call detail records  
6 that cover the time period of July 30th through 31st of 2016?

7 A Yes, they do.

8 Q Okay. And how do you recognize these disks?

9 A I signed my name on the disk after I reviewed them.

10 Q Okay. And are -- do these disks contain the call detail  
11 records that you reviewed as part your historical cell site  
12 analysis into the disappearance of Johnathan Fraser?

13 A Yes, they do.

14 Q And did the service providers for these call detail  
15 records provide certifications of authenticity for them?

16 A Yes, they did.

17 MS. AFFINITO: Your Honor, the United States moves to  
18 admit Exhibits 2-107, 2-116, 2-117, and 2-118.

19 THE COURT: Any objection to any of those four  
20 exhibits?

21 MR. KENNEDY: Your Honor, which is the first one?

22 THE COURT: 2-107.

23 MR. KENNEDY: 107. No objection.

24 THE COURT: Those four exhibits, then, are admitted  
25 without objection. Again, that's 2-107, -116, -117, and -118.

1 (Exhibits 2-107 and 2-116 through 2-118 received in  
2 evidence.)

3 BY MS. AFFINITO:

4 Q So let's start with the records that are Exhibit 2-116.

5 I believe you said these relate to the cell phone number  
6 (808) 476-9223; is that correct?

7 A I'm so sorry. The disk fell out. Could you repeat  
8 yourself?

9 Q Yeah.

10 A Or the question. I'm sorry.

11 Q For the records at Exhibit 2-116, do -- I believe you  
12 testified to this. They relate to the cell phone number (808)  
13 476-9223?

14 A Correct.

15 Q And this is -- AT&T is the carrier?

16 A That's correct.

17 Q As part of your analysis, did you attribute this number to  
18 anyone?

19 A I did.

20 Q And how were you able to attribute it?

21 A Records from the FBI case file, as well as contact lists  
22 from forensic cellular phone dump reports.

23 Q Okay.

24 A Or report, yes. Sorry.

25 MS. AFFINITO: At this time I'd like to publish



1 Exhibit 2-112 [sic] from the government's original list, which  
2 is already admitted.

3 THE COURT: Go ahead.

4 MS. AFFINITO: Oh, sorry. Excuse me. 2-122.

5 BY MS. AFFINITO:

6 Q So this is an extraction report for contacts from an Apple  
7 iPhone; is that correct?

8 A That's what it appears to be, yes.

9 Q Okay. And do you know whose phone this is?

10 A For this particular exhibit?

11 Q Yes. This -- yeah, the -- the contacts list here.

12 A I believe this is for Ashley Wong.

13 Q Okay. And if we could go to Row 18.

14 what is the name listed here?

15 A Uncle Mike Miske.

16 Q Okay. And the -- what is the phone number listed?

17 A 1 (808) 476-9223.

18 Q And is that the same phone number for the call detail  
19 records that you analyzed at Exhibit 2-116?

20 A Yes.

21 Q And so were you able to attribute this phone number ending  
22 in 9223 to Michael Miske?

23 A That's correct.

24 Q Okay. And --

25 MS. AFFINITO: You can take this down.

1 BY MS. AFFINITO:

2 Q So the records at Exhibit 2-117, those ones relate to a  
3 cell phone number (808) 465-6074; is that right?

4 A That's correct.

5 Q And the carrier is T-Mobile?

6 A That's correct.

7 Q So as part of your analysis, did you attribute this phone  
8 number to anyone?

9 A I did.

10 Q Okay. And how did you attribute it to someone?

11 A Subscriber records for this respective number ending in  
12 6074 identified the number as belonging to Delia Fabro, or  
13 Fabro-Miske, that I know. I was also able to attribute it to  
14 her based on records from the FBI case file, as well as  
15 contacts list from a forensic cell phone dump report.

16 Q Okay.

17 MS. AFFINITO: So can we please pull up  
18 Exhibit 2-117B from the government's 17th supplemental, just  
19 for the witness?

20 BY MS. AFFINITO:

21 Q Do you know what this document is?

22 A Yes.

23 Q And what is it?

24 A This is the subscriber records that I spoke about that  
25 were provided with the T-Mobile records for that number ending

1 in 6074.

2 Q And is this one of the call detail records contained on  
3 the disk at 2-117 that you just identified?

4 A It is.

5 Q And this is one of the records that you reviewed as part  
6 of your analysis?

7 A It is.

8 MS. AFFINITO: Your Honor, the United States moves to  
9 admit and publish Exhibit 2-117B.

10 THE COURT: Any objection?

11 MR. KENNEDY: No objection, Your Honor.

12 THE COURT: 2-117B, then, is admitted without  
13 objection. And, yes, you may publish it.

14 (Exhibit 2-117B received in evidence.)

15 MS. AFFINITO: So if we could enlarge this first  
16 section that says "Subscriber Details."

17 by MS. AFFINITO:

18 Q Who is the 'scriber identified in this document?

19 A Delia Anne Fabro.

20 MS. AFFINITO: Okay. And if we could go out of this.  
21 And if we -- let's see -- and if we could enlarge the section  
22 that says "Device Details" in the middle.

23 BY MS. AFFINITO:

24 Q Where it says "MSISDN number" is that the phone number for  
25 this device?

1 A It is. For these records. Correct.

2 Q And that 6074 number, this is the number of the device  
3 whose records you reviewed?

4 A Correct.

5 Q Okay. And so here, these subscriber detail records  
6 include -- it says Delia Ann Fabro is the subscriber.

7 Do these records always have a person listed?

8 A They do not.

9 Q Okay. Are sometimes these records attributed to prepaid  
10 accounts?

11 A That's correct.

12 Q Okay. And is the -- is the name always correct in these  
13 subscriber records?

14 A No, it is not.

15 Q Okay. Did you notice anything else of note when you  
16 looked at these subscriber details?

17 A I did. The address listed under Delia Ann Fabro's name in  
18 the top section under the subscriber detail portion.

19 MS. AFFINITO: Can we enlarge that again?

20 BY MS. AFFINITO:

21 Q And what was of note about this address to you?

22 A It was one of the locations that I was provided for --  
23 during the initial request for me to conduct analysis for these  
24 records.

25 Q And do you know what that address is associated with?

1 A The 940 Queen Street in Honolulu, Kama'aina Termite and  
2 Pest.

3 Q Okay.

4 A I apologize (inaudible).

5 Q And so, again, these are -- this -- this -- these are  
6 records for the phone number that you analyzed for  
7 Exhibit 2-117 on that disk?

8 A Correct.

9 MS. AFFINITO: Okay. And then if we could pull up  
10 Exhibit 2-122 again, which is already admitted, and if we could  
11 just look at Row 1.

12 BY MS. AFFINITO:

13 Q What is the name that's listed there for that contact?

14 A Delia -- or Delia.

15 Q And what is -- is this the same 6074 phone number that we  
16 were just talking about?

17 A It is.

18 Q Okay. So --

19 MS. AFFINITO: We can take this down.

20 BY MS. AFFINITO:

21 Q So then for the records at Exhibit 2-118, those relate to  
22 the phone number (808) 202-8799; is that correct?

23 A That's correct.

24 Q And this was -- T-Mobile again is the carrier?

25 A That's correct.

1 Q So as part of your analysis, did you attribute this number  
2 to anyone?

3 A I did.

4 Q Okay. And who did you attribute it to?

5 A Lance Bermudez.

6 Q And how did you attribute it to Lance Bermudez?

7 A Records from the FBI case file, as well as from a forensic  
8 cell phone dump report, contacts list from that forensic dump  
9 report.

10 MS. AFFINITO: Okay. Can we please publish  
11 Exhibit 1-0478 from the government's original list, which is  
12 already in evidence?

13 THE COURT: Go ahead.

14 MS. AFFINITO: So can we enlarge this top section?  
15 by MS. AFFINITO:

16 Q So what is the Bluetooth device name listed here?

17 A Hammertime.

18 Q Okay. And what is the phone number listed under MSISDN?  
19 It's about halfway down.

20 A I think it's 1 (808) 202-8799.

21 Q That's this right here (indicates)? Okay.

22 And is this -- this is the phone number for that device  
23 whose records you looked at?

24 A That's correct.

25 Q Okay.

1 MS. AFFINITO: And can we -- can we now publish  
2 Exhibit 1-985C from the government's second supplement, which  
3 is also already in evidence?

4 THE COURT: Go ahead.

5 MS. AFFINITO: And can we turn to page 6, at line 37.

6 BY MS. AFFINITO:

7 Q And what is the name listed here for this entry?

8 A Lance Hammah.

9 Q Okay. And the phone number again. This is that same  
10 phone number ending in 8799?

11 A Correct.

12 Q And who's your -- what is your understanding of who  
13 Hammertime or Lance Hammah is?

14 A Lance Bermudez.

15 Q Okay. So then the records --

16 MS. AFFINITO: We can take this down.

17 BY MS. AFFINITO:

18 Q The records at Exhibit 2-107 relate to the phone number  
19 (808) 745-9064; is that correct?

20 A That's correct.

21 Q And T-Mobile is, again, the carrier for this number?

22 A That's correct, yes.

23 Q So as part of your analysis, did you attribute this number  
24 to anyone?

25 A I did.

1 Q And who's that?

2 A Jason Yokoyama.

3 Q And how did you identify it as Jason Yokoyama's cell  
4 phone?

5 A Through records from the FBI case file, as well as  
6 contacts list from the forensic phone dump report.

7 Q Okay.

8 MS. AFFINITO: Can we publish Exhibit 1-480 from the  
9 original list, which is already in evidence? I think we were  
10 just looking at it.

11 THE COURT: Go ahead.

12 MS. AFFINITO: And can we go to page 3 at line 16 and  
13 17.

14 BY MS. AFFINITO:

15 Q And what is the name that's listed here?

16 A Jay.

17 Q Okay. And what is the phone number listed for these two  
18 entries?

19 A 1 (808) 745-9064.

20 Q And that's the same cell phone number for records you  
21 analyzed at Exhibit 2-107?

22 A It is, yes.

23 Q Okay.

24 MS. AFFINITO: Can we also pull up Exhibit 1-536,  
25 which is also already admitted?



1 THE COURT: Go ahead.

2 BY MS. AFFINITO:

3 Q Is this the contacts list from an iCloud account for  
4 Michael Miske?

5 A Yes. That's my understanding. Yes, correct.

6 Q Okay.

7 MS. AFFINITO: And can we go to page 10, at  
8 line 1399. It's the third from the bottom.

9 BY MS. AFFINITO:

10 Q And what is the name listed here for this contact?

11 A Jason 2.

12 Q Okay. And this is that same 9064 number that we were  
13 talking about?

14 A Correct.

15 Q Okay. And so you analyzed the records from these four  
16 numbers that we just went over with respect to your analysis  
17 regarding the disappearance of Johnathan Fraser; is that  
18 correct?

19 A That's correct.

20 Q Okay. And you attributed the number ending in 9223 to  
21 Michael Miske; is that correct?

22 A That's correct.

23 Q And you attributed the number ending in 6074 to Delia  
24 Fabro-Miske; is that correct?

25 A That's correct.

1 Q And you attributed the number ending in 8799 to Lance  
2 Bermudez; is that correct?

3 A That's correct.

4 Q And you attributed the number ending in 9064 to Jason  
5 Yokoyama; is that correct?

6 A That's correct.

7 Q Okay.

8 MS. AFFINITO: So can we now please pull up  
9 Exhibit 2-116Q from the government's 18th supplement just for  
10 the witness?

11 THE COURT: Go ahead.

12 MS. AFFINITO: And can we flip through? I think it's  
13 just a few pages. Just flip through so he can see it. Okay.

14 BY MS. AFFINITO:

15 Q Is this an excerpt of one of the call detail records for  
16 Michael Miske's phone that you analyzed?

17 A It is, yes.

18 Q Okay. And this is an excerpt of the records contained in  
19 that disk at 2-116?

20 A That's correct.

21 Q Okay. Now, the full record is hundreds of pages; is that  
22 correct?

23 A Correct. I believe it's over 600 pages.

24 Q Okay. And this is just three pages from that  
25 600-plus-page record?

1 A That's correct.

2 Q Okay. And is this an excerpt of one of the records  
3 that -- reviewed as part of your analysis?

4 A Yes, it is.

5 MS. AFFINITO: Your Honor, the United States moves to  
6 admit and publish Exhibit 2-116Q.

7 THE COURT: Any objection?

8 MR. KENNEDY: No objection, Your Honor.

9 THE COURT: 2-116Q is admitted. You may publish.

10 (Exhibit 2-116Q received in evidence.)

11 BY MS. AFFINITO:

12 Q Okay. So can you, I guess initially at a high level, can  
13 you describe what we're looking at here?

14 A Sure. So when AT&T provides us call detail records they  
15 provide us three types of usage: Voice, data, and SMS, or  
16 short message service, text message, is a way easier way to say  
17 that.

18 This is an excerpt from the voice details for that device  
19 ending in 9223. So this is what the call detail records look  
20 like in one format provided by AT&T.

21 Q And what is the date range covered by these records?

22 A June 13th, 2016 till August 7th, 2016.

23 Q Okay. So in the top left here, it says voice usage for  
24 (808) 476-9223. So voice usage, these are just calls? Is that  
25 what you said?

1 A These are just calls, correct.

2 Q Okay. So if we could turn to the next page. In the top  
3 left here it says data usage for -- and it has that same 9223  
4 number. So what does data usage mean?

5 A So data usage is anything that's not a call or a text,  
6 where you are using your phone, for instance, if you wanted to  
7 check the scores of the game or you want to use Instagram or  
8 Facebook. Anything that's not a call or a text where you're  
9 needing network resources.

10 Q Do you have to actively be using your phone for -- to  
11 generate data usage records?

12 A You do not.

13 Q Okay. So what are some examples of when a phone would  
14 have data usage even when you're not actively using it?

15 A Sure. For AT&T the network is constantly communicating  
16 with Internet enabled devices. And so applications that you  
17 run on your phone could be receiving updates. There's all  
18 sorts of communication between the network and the device that  
19 doesn't necessarily require any type of initiation from the  
20 user or holder of the device.

21 Q Okay. So then if we can go to the -- the third page here.  
22 So in the left here, this one says SMS usage for and it  
23 has that same 9223 number. So these are just text messages?

24 A Correct, these are just text messages.

25 Q Okay. So let's go back to the first page, showing the

1 phone call records.

2 Can you walk the jury through what each of these columns  
3 mean?

4 A Sure. So the first column is the item number. This is  
5 just denoting what it means and an event or a transaction that  
6 was recorded within T-Mobile's network for a particular event.  
7 For here, we're looking at calls.

8 Q Sorry. You just said T-Mobile; you mean AT&T?

9 A I'm sorry. I'm sorry, yes, AT&T. I'm staring at the  
10 symbol.

11 Q Okay. So does every -- every item number correspond with  
12 a new phone call?

13 A No, they don't. You could have several items for one  
14 call.

15 Q Okay. So -- and how would you be able to tell that it was  
16 several items for the same call?

17 A You'd have to look at the subsequent lines, starting with  
18 an item number, look at the time, look at some of the features  
19 that were invoked by the network for a particular call.

20 MS. AFFINITO: Okay. So if we can zoom out of  
21 this -- if you enlarge, I guess, the first -- let's do the  
22 first six rows. You can just -- just the first few columns.  
23 Yeah, that's good.

24 BY MS. AFFINITO:

25 Q So here, can you tell if there is a collection of item

1 numbers that all belong to a single call?

2 A Sure. So for this first one it appears, just looking at  
3 this excerpt, that five of those items are associated, appear  
4 to be associated with one call transaction.

5 Q So these are items one through five?

6 A Correct.

7 Q Okay. And item six is a new call?

8 A That's what it appears to be, correct.

9 Q Okay. And this is based on, I guess, the connection date  
10 and connection time that you're looking at?

11 A Correct.

12 Q Okay. Now, okay, so we can take this --

13 Okay. So let's move on. So we just mentioned connection  
14 date. What is that?

15 A So it's the date that the call happened.

16 Q Okay. And then Connection Time UTC, what is that?

17 A Sure. This is the time that the call was connected. AT&T  
18 and T-Mobile, they generate their records in UTC, which is  
19 coordinated universal time. It's a time standard by which time  
20 zones are based.

21 And so AT&T and T-Mobile, they produce their records  
22 natively in that UTC time zone.

23 Q And so, I guess, what's the conversion from UTC to local  
24 Hawaii time?

25 A It would be minus ten hours, so you would have to subtract

1 ten hours from whatever is being illustrated or represented in  
2 the record time.

3 Q Okay. And you would have to also account for that in the  
4 connection date as well if you're converting it?

5 A Correct. So if it's close enough, it could potentially  
6 fall back to the day before.

7 Q And so then this next column, Seizure Time, what is that?

8 A That's the time it takes for a call to get connected,  
9 travel through AT&T network and then get connected.

10 Q And then ET?

11 A Elapsed time, it's the duration of the call.

12 Q Originating number?

13 A The number making the call.

14 Q And then terminating number?

15 A The number receiving the call.

16 Q Okay. And then if we go to the next set of columns, what  
17 is IMEI?

18 A IMEI is the international mobile equipment identifier.  
19 This is basically the fingerprint, the device ID. It's a  
20 unique number for that device.

21 Q Okay. And then IMSI?

22 A That is the international mobile subscriber identity.  
23 That uniquely identifies the subscriber for this particular  
24 account on AT&T's network.

25 Q And then CT?

1 A That's call type. It just denotes ingoing, outgoing --  
2 incoming, outgoing. Sorry.

3 Q And then feature?

4 A Feature, these are proprietary features that AT&T uses to  
5 describe certain types of services that were utilized during a  
6 particular event on their network.

7 Q Okay. So then this last column, Cell Location, what does  
8 that mean?

9 A Sure. I had spoke earlier about call detail records  
10 looking like your billing statement, only they provide us the  
11 cell site location information that facilitated that event.  
12 That's where we would find that information about the tower and  
13 the side of tower and some other attributes that was used for a  
14 particular call, text, or data session.

15 Q Okay. So if we take this down. So in this column we can  
16 see there -- there are some entries here.

17 So what's the information that gets provided for cell  
18 location?

19 A So for this particular excerpt, when I look at it reading  
20 from left to right, that first group of numbers that's  
21 separated by a slash, that tells me that this is a 3G call and  
22 it identifies the location of the -- well, the -- this  
23 identifies the tower and the side of the tower within the AT&T  
24 network.

25 Q Okay. And then does it provide you longitude and



1 latitude?

2 A It is -- it does. That's the next two lines. AT&T does  
3 it a little backwards. They give us longitude first, then they  
4 give us latitude.

5 Q And is there other information that's provided?

6 A There is. The azimuth, which is basically the side, the  
7 direction and compass degrees that that respective cell site --  
8 sector or side of the tower -- is facing.

9 Q Okay. And anything else?

10 A Then beam width, which is basically it's the -- the width  
11 of coverage for the radio frequency signals for a particular  
12 side of the tower.

13 Q And so if a device moved, how do you see that in this cell  
14 location column?

15 A You would see the cell location identifier, or that group  
16 of first two numbers, the 50993, slash, 30134. If it used a  
17 different tower or different side of the tower, you would see a  
18 difference in those numbers.

19 Q Okay. So here, when we're looking at, you know, the first  
20 entry versus the second set, those are different numbers; is  
21 that correct?

22 A Are you talking about that first single line?

23 Q I'm talking about the -- the first line and then the --  
24 yeah, the -- this next one that's being highlighted. Like  
25 here, these connect to different towers; is that correct? Or

1 different sides of towers?

2 A Correct, yes. Two different towers and sides of towers  
3 facilitated this event.

4 Q Okay. So, then, now let's go to page 2.

5 So you said these are data usage records, correct?

6 A That's correct.

7 Q And are there any different columns here specific to data  
8 usage?

9 A Sure. The -- the different columns are the bytes up and  
10 bytes down. What that represents is the exchange of traffic  
11 between the device and the network.

12 Q Okay. And then towards the end here, we also have make  
13 and model.

14 A Correct. It's just denoting the device make and the type  
15 of device. So here it is a Apple iPhone 6S.

16 Q Okay. But the other columns are -- are generally the  
17 same?

18 A Yes. They are formatted in the same particular way.

19 Q Okay. And then let's go to page 3.

20 So these are the records for text messages?

21 A Correct.

22 Q Okay. And are there any columns specific to text  
23 messages?

24 A In the description, which would be the fourth column over  
25 from the right, this just denotes whether it's an incoming or

1 outgoing text.

2 Q Okay. So these are records -- or these are an excerpt of  
3 records from AT&T, correct?

4 A Yes.

5 Q So do -- does each cellular service provider generally  
6 provide the same types of information in their call detail  
7 records?

8 A Yes.

9 Q Do they each provide location information?

10 A Generally, yes, for the records that we get.

11 Q Okay. Do some providers provide more location information  
12 than others?

13 A Correct.

14 Q And, I guess, how does AT&T compare to other carriers in  
15 this regard?

16 A AT&T, for like data sessions will provide us -- we call  
17 them legs of the call, but I'd spoken earlier about if a  
18 device, say you start on one side of the island and drive to  
19 the other and you're running a data session, if you keep that  
20 data session continuous and you are connected to the network,  
21 as you drive across the island those towers and sides of the  
22 towers that you use for that data connection will be reflected  
23 in your record, or at least I expect to see those reflected in  
24 your record if you're using AT&T.

25 Q Do cellular carriers provide this information in different

1 formats?

2 A They do.

3 Q Okay. But it's generally still the same type of  
4 information in these call detail records?

5 A That's correct, yes.

6 Q Okay. For AT&T, what would it mean if there's no location  
7 information for a call, text, or data session?

8 A Not seeing any information, such as cell site location  
9 information for those three types of events on AT&T, usually  
10 suggests to me based on my experience that the device is not on  
11 the network.

12 Q Okay. And so why would a device not be on the network?

13 A Could be a number of reasons. Your phone could be off.  
14 It could be off because it was turned off, your battery died,  
15 you put it in airplane mode, or you're just outside of the  
16 network coverage.

17 MS. AFFINITO: Okay. We can take this exhibit down.

18 BY MS. AFFINITO:

19 Q So how voluminous were the call detail records that were  
20 provided to you for the four phone numbers that you analyzed?

21 A I think they were over a couple thousand pages  
22 collectively.

23 Q Okay. So would it take you a long time to go through all  
24 of those records with the jury?

25 A It would.

1 Q Okay. Did you prepare a PowerPoint report summarizing  
2 your analysis of those voluminous records?

3 A I did, yes.

4 MS. AFFINITO: And can we show the witness only  
5 Exhibit 2-115 from the government's original list?

6 THE COURT: You may.

7 BY MS. AFFINITO:

8 Q What is this document?

9 A This is the cover sheet for the report that I generated  
10 for the four numbers that I was asked to analyze.

11 Q Okay. And is it fair to say that this report summarizes  
12 data from the thousands of pages of call detail records that  
13 you reviewed on those disks at Exhibits 2-107, 2-116, 2-117,  
14 and 2-118?

15 A Yes.

16 Q And what time period does this report focus on?

17 A Primarily July 30th to July 31st, 2016.

18 Q And you analyzed the call records for four numbers in  
19 preparing this report?

20 A Correct.

21 Q And how did you generate the report?

22 A I took the call detail records and the cell site  
23 information from the carrier, and dates, times, locations, as I  
24 had mentioned earlier, and I generated these maps using the  
25 Microsoft PowerPoint.

1 MS. AFFINITO: Your Honor, the United States moves to  
2 admit Exhibit 2-115.

3 THE COURT: Any objection?

4 MR. KENNEDY: No objection, Your Honor.

5 THE COURT: 2-115, then, is admitted without  
6 objection.

7 (Exhibit 2-115 received in evidence.)

8 THE COURT: I gather those edits that Mr. Kennedy  
9 requested, it was either the day -- yesterday or the day  
10 before, have been made.

11 MS. AFFINITO: Yes. They were made actually before  
12 he requested them.

13 THE COURT: All right. Thank you.

14 Go ahead.

15 MS. AFFINITO: So if we could please publish this for  
16 the jury?

17 THE COURT: Yes.

18 BY MS. AFFINITO:

19 Q So this is the cover sheet you were just referring to?

20 A That's correct, yes.

21 Q Okay. So can we turn now to page 2.

22 So this is -- it says "Legend" at the top. Is this a  
23 legend for the report?

24 A That's correct.

25 Q Okay. So time frame of analysis, what does this refer to?

1 A The time frame or that span of time frame that I was asked  
2 to analyze for the -- these four numbers with this particular  
3 report.

4 Q Okay. And so this is July 30th of 2016, at 8:00 a.m.,  
5 until July 31st, 2016, at 4:45 a.m.?

6 A That's correct.

7 Q Okay. Did you also look at records outside of this time  
8 frame?

9 A I did, yes.

10 Q Okay. So let's start with the information in the box on  
11 the top left, that says "Carrier," and then it says "Phone  
12 Numbers and Color Code."

13 Can you explain what this information is?

14 A Sure. So during this analysis because there's four  
15 numbers, I needed a way to differentiate them when they appear  
16 on the same slide, and so I use colors to make that separation.

17 So these colors for these numbers should stay consistent  
18 through the report. Off to the left is the carrier, 9223,  
19 AT&T, with the rest of 'em being T-Mobile. So this just  
20 identifies the carrier, the number, and the corresponding  
21 color.

22 Q Okay. So this phone number in green, ending in 9223, this  
23 is the number you previously testified you attributed to  
24 Michael Miske?

25 A That's correct, yes.

1 Q Okay. And then this number ending in 6074, in purple,  
2 this is the number you identified to Delia Fabro-Miske?

3 A Correct.

4 Q And then the number in blue, ending in 8789, this was a  
5 number you attributed to Lance Bermudez?

6 A That's correct.

7 Q And then the number in red, ending in 9064, this is the  
8 number you attributed to Jason Yokoyama; is that correct?

9 A That's correct.

10 Q Okay. So, then, if we can go out of this, zoomed in.

11 So then on the right it has addresses and locations. So  
12 what are these?

13 A Sure. So like the numbers, I needed to use colors to  
14 differentiate the banners which are going to reflect these  
15 locations on a map. And so the first banner, the purple one,  
16 it represents Delia Miske's residence at 6233 Keokea Place. My  
17 apologies.

18 The next banner, the blue banner, that will represent the  
19 approximate location of Kewalo Basin Harbor, at 1125 Ala Moana  
20 Boulevard.

21 The dark green banner represents the location of Kama'aina  
22 Termite and Pest at 940B -- B Queen Street.

23 The light teal-colored banner represents the location of  
24 the M Nightclub at 500 Ala Moana Boulevard.

25 The light purple or magenta, that represents the location



1 of a van that had been set on fire, that police and fire  
2 responded to.

3 The yellow banner represents the location of Michael  
4 Miske's residence at 1226 Kuuna Street, in Kailua.

5 The blue dot with the black border, that represents the  
6 locations of AT&T cell sites on island; and then the dark green  
7 represents the same thing, only for T-Mobile's cell site  
8 locations.

9 Q Okay. So, then, now let's look at this box on the bottom  
10 left: Cellular Record Activity, Cell Site, and Sector. What  
11 is this?

12 A Sure. So in order to illustrate a tower and the side of  
13 the tower that a device was using as reflected in the records,  
14 we use an open wedge. And the wedge represents that tower,  
15 that sector of the tower that a cell phone is using.

16 The dotted line that emanates up from that center part,  
17 that represents the azimuth, or the direction that the side of  
18 a tower is facing.

19 Q Okay. So if a phone was connecting to a tower, if you --  
20 this is a touch screen. So where in sort of this wedge, where  
21 would the tower be located, if you can just like -- I don't  
22 know if that's a stylus. You can use your finger. I don't  
23 know what that is.

24 A So in this particular example I would expect to find a  
25 device somewhere in this area (indicates).

1 Q Okay.

2 A Generally, yes.

3 Q Okay. And then would -- where would the cell tower be?

4 A The cell tower would be here (indicates), at the point  
5 where those wedge arms meet.

6 Q Okay. But this wouldn't tell you exactly where the cell  
7 phone is located, correct?

8 A That's correct.

9 MS. AFFINITO: So, then, if we could now turn to  
10 page 3.

11 BY MS. AFFINITO:

12 Q So the image on the left, it says Sector 1, Sector 2,  
13 Sector 3. What does this mean?

14 A Sure. I've talked about towers and sectors, or sides of  
15 the towers. This is just a birds-eye view, looking down on a  
16 tower and the most common configuration that cell carriers use.  
17 This is a three-sector configuration, with each sector  
18 providing approximately 120 degrees coverage around that tower  
19 for a total of 360 degrees.

20 As I stated earlier, the azimuth represents the center of  
21 the sector, and that's -- that represents the direction in  
22 compass degrees that that sector is facing, or that side of the  
23 tower is facing.

24 Q Okay. So here, we have those arrows that represent the  
25 azimuth. One is pointing towards just due north at zero

1 degrees; is that right?

2 A Correct.

3 Q Are these -- in this depiction, are these azimuth  
4 directions always the same?

5 A No, they're not.

6 Q Okay. So it would -- it would vary depending on the  
7 particular call or text or data session?

8 A Well, it depends on where the carrier needs to put their  
9 resources. If they need to point a side of the tower and those  
10 antennas to a place that's more heavily populated, where  
11 there's more people, more usage, then that azimuth could be  
12 something different from the zero, 120, or 240.

13 Q Okay. So then if we look at the image on the right, this  
14 is that same wedge we were just looking at before?

15 A Correct.

16 Q Okay. And so is this green dot at the point of it, that's  
17 a -- that's a cell tower?

18 A So, yes, so when we talk about mapping call detail  
19 records, this is a pretty common method in which we do that,  
20 where we use that wedge to show the location at the tower, a  
21 side of a particular tower being used. And then the green dot  
22 at the base there, this denotes that this particular example is  
23 for a T-Mobile cell site.

24 Q And so what, if any, significance does this shaded  
25 portion, the shaded arc have, in the wedge?

1 A The shaded part just represents the direction in which the  
2 radio frequency signal is propagating out from the tower. This  
3 is not indicative of the true radio frequency or coverage  
4 for -- of this particular tower or any particular tower in the  
5 report.

6 Q Okay. So, again, like with the one before, for this you  
7 would just expect to find the phone somewhere north of where  
8 this wedge is facing --

9 A Correct.

10 Q -- correct? Okay.

11 MS. AFFINITO: And if we could go to page 4.

12 BY MS. AFFINITO:

13 Q So what does this geographic overview slide depict?

14 A This is just a zoomed out view of the locations of AT&T  
15 and T-Mobile cell sites on the island during the 2016 time  
16 frame. Off to the left is a legend that is just duplicative of  
17 the -- what you guys saw in the -- the legend.

18 Q Okay. So if we're looking at this map, so on the far  
19 left, there's a marker in magenta. This -- it's "Van Located."  
20 That's the location of the van?

21 A That's correct, yes.

22 Q Okay. And then if we look at the far right, there's a  
23 yellow marker. This would be the -- Michael Miske's residence;  
24 is that correct?

25 A Far upper right, yes.

1 Q Yeah, near Kailua. Is that correct?

2 A That's correct.

3 Q Okay. And then if we go down to the bottom right portion,  
4 in purple, this is Delia Miske's residence; is that right?

5 A That's correct.

6 Q Okay. And then when we're looking just in town, in  
7 Honolulu, this is where Kewalo Basin, Kama'aina Termite and  
8 Pest, and M Nightclub are located?

9 A That's correct.

10 Q Okay. So let's now turn to page 5.

11 So what does this slide depict?

12 A So this slide represents cell phone activity from the call  
13 detail records for the number ending in 6074, for the time  
14 period July 30, 2016, from 8:27 a.m. in the morning till  
15 5:49 p.m.

16 Q Okay. And this 6074 number, this is Delia's phone?

17 A That's correct.

18 Q Okay. So based on this, where would you expect to find  
19 Delia's phone during this time period on July 30th?

20 A May I draw on the screen?

21 Q Yes.

22 A Okay. I would expect to find the device somewhere to the  
23 right of that cell site, T-Mobile cell site that denotes the  
24 location of the -- for T-Mobile -- or basically to the right of  
25 that banner inside that wedge.

1 Q Okay. So would -- so this banner shows Delia Miske's  
2 residence. Is that within the area in which you would expect  
3 to find her phone?

4 A Yes. I would expect to find the device there, or in that  
5 area.

6 Q Okay. And then if we're looking at this -- this box in  
7 the top right?

8 A Correct.

9 Q What does this show?

10 A So these are reflective of the call detail record events  
11 that used this particular cell site or this particular tower  
12 and side of the tower.

13 Q Okay. So this -- some of these say incoming, and then I  
14 guess the last one says outgoing. So these are incoming and  
15 outgoing calls to Delia's phone during this time period?

16 A Correct. So all incoming from 8:27 until 4:08 p.m., and  
17 then the first outgoing in this particular example is at  
18 5:49 p.m.

19 Q Okay. And so between 8:27 and, I guess, 8:45 -- so these  
20 ones (indicates).

21 Okay. We see ten incoming calls from a number (808)  
22 829-2126. Do you see that?

23 A I believe there's 11.

24 Q Well, I'm just going up to 8:45. This shows one --

25 A Oh, I'm sorry. Yes, ten.

1 Q Yeah. Okay, so between 8:27 and 8:45 there are ten calls?

2 A Correct.

3 Q And they're all from this 2126 number; is that correct?

4 A That's correct.

5 MS. AFFINITO: Okay. Can we please publish  
6 Exhibit 2-121 from the government's original list already in  
7 evidence?

8 THE COURT: Yes. Go ahead.

9 MS. AFFINITO: So if we could zoom in on the MSISDN  
10 number there. Yeah.

11 BY MS. AFFINITO:

12 Q So is this the same phone number that we just saw, that  
13 2126 number?

14 A It is.

15 Q Okay. (808) 829-2126.

16 So then if we flip to the second page of this. Do you see  
17 user accounts that are associated with this 2126 number?

18 A Yes, I do.

19 Q Okay. And who are the individuals identified in these  
20 user accounts?

21 A Ashley Wong 26 and John Fraser.

22 Q Okay. And is it your understanding that this phone was  
23 used by Ashley Wong?

24 A Yes.

25 Q Okay.

1 MS. AFFINITO: Can we go back to Exhibit 2-115, at  
2 page 5?

3 THE COURT: Go ahead.

4 BY MS. AFFINITO:

5 Q So for some of these calls on the right here, it says  
6 voicemail after them. What does that mean?

7 A That's that the call was recorded as a voicemail or went  
8 to a voicemail on T-Mobile network.

9 Q Okay. And then for three of the calls during this time  
10 frame, up until 8:45, we see some just say voice. (Indicates.)  
11 Is that correct?

12 A That's correct.

13 Q Okay. So what does that mean?

14 A These are just voice calls that no voicemail is associated  
15 with this respective event.

16 Q Okay. Do you know if these particular voice calls  
17 actually connected?

18 A They did not.

19 Q Okay. And how do you know that?

20 A In the duration column in the call detail records, it was  
21 blank.

22 Q Okay. So were these, I guess, unanswered calls that did  
23 not go to voicemail?

24 A Yes, that's what they appear to be.

25 Q Okay. Would that happen if someone hung up before it went



1 to voicemail?

2 A I don't know if I can speak to that, but they were calls  
3 that just -- they weren't answered.

4 Q Okay. Unanswered, okay.

5 And then do you see again here, at 10:37 a.m., another  
6 incoming call from Ashley Wong's phone?

7 A Yes.

8 Q Okay. Okay, and did that call go to voicemail as well?

9 A That's what it appears to be, yes.

10 Q Okay. And then there are a few additional incoming calls  
11 to Delia's phone that afternoon. Did those also go to  
12 voicemail, these ones here (indicates)?

13 A The ones at 12:50, 3:14, and 4:08, yes.

14 Q Okay. And then when is the first outgoing call from  
15 Delia's phone on that day, July 30th?

16 A 5:49 p.m.

17 Q Okay.

18 MS. AFFINITO: And can we take out the zoomed-in  
19 portion? Okay.

20 BY MS. AFFINITO:

21 Q So but all of these -- for all of these calls, incoming or  
22 that final outgoing one, the -- is there any indication that  
23 the phone moved?

24 A No.

25 Q Okay. And it was connecting to the same tower?

1 A Correct.

2 Q Okay. And the same side of the tower?

3 A Correct.

4 Q Okay.

5 MS. AFFINITO: If we could now go to page 6.

6 BY MS. AFFINITO:

7 Q Okay. So in the banner across the top here, it says:

8 Phone activity (808) 476-9223, AT&T voice, July 30th, 2016.

9 So does this slide relate to voice call activity for this  
10 phone number ending in 9223 on July 30th?

11 A Yes, it does.

12 Q Okay. And this 9223 number is the one that you attributed  
13 to Michael Miske; is that correct?

14 A That's correct.

15 Q Okay. So is there anything notable about the voice call  
16 records for Michael Miske's phone on July 30th?

17 A So this slide represents two separate blocks of time on  
18 July 30th, 2016, for voice usage on AT&T, where the device  
19 appears to be off the network.

20 Q Okay. And how do you know that it appears to be off the  
21 network?

22 A So off to the right I had mentioned feature and cell site  
23 location earlier. In my experience and training, the feature,  
24 if you look at the top portion -- I guess I could use my  
25 finger. Right here (indicates). CFNR is a code AT&T uses. It

1 means call forwarding not reachable. You can also see that  
2 there's no cell site location.

3 AT&T basically can't see where this phone is, so the  
4 device is not reachable.

5 Q Okay. And so after CFNR it says VM. What does that mean?

6 A Voicemail.

7 Q Okay. So for -- you said there are two blocks of time  
8 during which the -- there was the -- the phone appeared to be  
9 off the network and there was no location information?

10 A Correct.

11 Q Okay. So, then, let's focus on sort of, I guess, first  
12 the top half of this page.

13 So are these excerpts of the call detail records for  
14 Michael Miske's phone?

15 A They -- they are, yes.

16 Q Okay. So then --

17 MS. AFFINITO: Oh, sorry. I'm trying to clear it.

18 If we can zoom in again, sorry, I must have --

19 BY MS. AFFINITO:

20 Q Okay. So these -- so here, the first three rows that we  
21 see here, starting with Item 3409, this has a connection date  
22 of 7/30/16 and a connection time of approximately 18:37.

23 What is that date and time in Hawaii local time?

24 A This would be 8:37 in the morning on July 30th.

25 Q Okay. And do these three rows, these three items relate

1 to separate calls?

2 A The top three rows refer to one event, and then the item  
3 at the bottom, the 3444, refers to another event.

4 Q Okay. And so the 3444, that one, what is the -- the date  
5 and time in local Hawaii time for that fourth entry?

6 A That would be 1:39 p.m. on the 30th.

7 Q Okay. So that -- did you see any location information in  
8 the voice call records for Michael Miske's phone during this  
9 time period between 8:37 a.m. until 1:39 p.m. on July 30th?

10 A No. The first one was at 1:39 p.m.

11 MS. AFFINITO: Okay. So, then, can we show the  
12 witness only Exhibit 2-116R from the government's 18th  
13 supplement?

14 THE COURT: Go ahead.

15 MS. AFFINITO: Okay. So can we just flip through  
16 this for the -- the witness to see?

17 And we can --

18 BY MS. AFFINITO:

19 Q So what is this document?

20 A This is page 181 from the PDF-formatted call detail  
21 records for device 9223.

22 Q Okay. Well, I guess there's -- there are a few pages, if  
23 you can -- so this isn't just 182 and 183; is that right?

24 A That's correct.

25 Q Okay. So are these excerpts of the records that you

1 reviewed for your analysis?

2 A Yes.

3 Q Okay. And are these excerpts from an original document  
4 that is several hundred pages long?

5 A Yes.

6 Q Okay. And these are the same records that you excerpted  
7 in your report that we just saw?

8 A Yes.

9 Q Okay.

10 MS. AFFINITO: Your Honor, I'd move to admit and  
11 publish Exhibit 2-116R.

12 THE COURT: Any objection to that?

13 MR. KENNEDY: Your Honor, are these pages 181 through  
14 183 of 2-116H?

15 MS. AFFINITO: Yes.

16 MR. KENNEDY: Then no objection.

17 THE COURT: Without objection, 2-116R is admitted.  
18 You may publish it.

19 (Exhibit 2-116R received in evidence.)

20 BY MS. AFFINITO:

21 Q Okay. So if we look at the first page, at line 3409,  
22 this -- is this the same entry for a call at 8:37 a.m. local  
23 time that we just saw?

24 A Correct.

25 Q Okay. So then prior to 8:37 a.m., when was the last time

1 a call from this phone generated cell location data?

2 A It looks like approximately 11:40 the night before. So it  
3 would have been July 29th, 2016.

4 Q Okay. And then starting at 8:37 a.m. local time, we see  
5 you had talked about, in this feature column, CFNR and then VM.  
6 We see several entries that have that notation, correct?

7 A That's correct.

8 Q Okay. So for these ones, the calls did not connect; is  
9 that correct?

10 A They did not.

11 Q Okay. And from this, can you tell whether the phone was  
12 connected to the network at the time of those calls?

13 A It does not appear that the phone is connected or visible  
14 to the network based on this.

15 Q Okay. So then if we can, yeah, go out of this.

16 So for these entries, is there any cell location data?

17 A There is no cell location data for approximately 3409 down  
18 to the bottom for page 181.

19 Q Okay.

20 MS. AFFINITO: So then if we can zoom in on three --  
21 Items 3409 through 3422, just -- yeah, that's fine.

22 BY MS. AFFINITO:

23 Q So here, is each line here -- we talked about this. Is  
24 each item a separate call?

25 A No.

1 Q Okay. So how many individual calls do you see reflected  
2 in this series of items?

3 A There appear to be four calls here.

4 Q Okay. And so if we look, is this first one the one  
5 that's -- these four rows, it says 18:37, that's 8:37 a.m.  
6 local time?

7 A Correct.

8 Q And then the next is this next set ending in Item 3416  
9 that are at 18:40, or 8:40 a.m. local time?

10 A Correct.

11 Q Okay. And then the next set ends at Item 3420 at 18:45,  
12 or 8:45 a.m. local time?

13 A Correct.

14 Q And then the last two are at 20:34. That's 10:34 a.m.  
15 local time?

16 A Correct.

17 Q Okay. Now, in these entries, what's the other number  
18 that's listed -- that's in contact with Michael Miske's phone  
19 for these?

20 A 1 (808) 829-2126.

21 Q Okay. So that 2126 number, that's Ashley Wong's phone?

22 A That's correct.

23 Q Okay. So is Ashley Wong's phone calling Michael Miske's  
24 phone or is it receiving calls from it?

25 A It's calling the 9223 number.

1 Q Okay. And did any of those calls connect?

2 A It does not appear.

3 Q Okay. And that you can tell from this CFNR VM notation?

4 A Correct.

5 MS. AFFINITO: So then if we can go out of this and  
6 go to the next page. The second page, yes.

7 BY MS. AFFINITO:

8 Q So does this show -- does this page show the voice call  
9 records from I guess it would be 10:34 a.m. local time until  
10 1:39 p.m. local time, on July 30th?

11 A Correct.

12 Q Okay. And is there any cell location information for  
13 these entries?

14 A There's not.

15 Q Okay. And you have the same call forwarding not reachable  
16 voicemail notation under the feature column?

17 A For all but one, yes.

18 Q Okay. So if we look down here, there's one that says  
19 VCORR. What does that mean?

20 A It's an AT&T feature that corresponds with 4G traffic.

21 Q Okay. But does that indicate that the phone connected?

22 A No. There's no cell site location information here.

23 Q Okay. So then if we could now go to the next page, which  
24 is 183, yeah.

25 So the first entry on this page, at Item 3444, this is at



1 1:39 p.m. local time; is that correct?

2 A Correct.

3 Q Okay. And is this the first time, on July 30th, that the  
4 voice call records for this phone include this cell site -- or  
5 cell location information?

6 A Yes.

7 Q And so at this time is the phone connected back to the  
8 network?

9 A That's what it appears so, yes.

10 Q Okay. So here when we're looking (indicates) -- yeah.

11 So here we see cell location, we see data, in that column,  
12 correct?

13 A That's correct.

14 Q And we see a different notation in the feature column?

15 A That's correct.

16 Q Okay. So for this, is the -- for this time period, this  
17 call at 1:39 p.m., is the phone connected back to AT&T's  
18 network?

19 A That's what it appears so, yes.

20 Q Okay. So are there any other extended periods on  
21 July 30th during which there was no cell location information  
22 for voice calls?

23 A There is, later in the day.

24 Q Okay. Okay, so then if we -- so is that -- was that -- I  
25 guess, well, what time period was that from?

1 A For the next one where there is a -- a block of --

2 Q Yes. Yeah.

3 A So it would be -- if you go down to line 3450, Item Number  
4 3450. So between 3450 and 3451.

5 Q Okay. And I guess -- well, here. Hold on.

6 MS. AFFINITO: Let's zoom out here for a second, if  
7 we can look at 3450 to 3454. Or it's actually 3455. Let's  
8 include that one and go all the way across. Okay.

9 BY MS. AFFINITO:

10 Q So this includes that time block that you were just  
11 discussing?

12 A Yes, it does.

13 Q Okay. So when does this start? At 3450, what time is  
14 that in local time?

15 A That'd be 3:05 p.m. local time.

16 Q Okay. And, then, when do we first see location  
17 information from this phone again?

18 A Down at the bottom, at 8:50 p.m.

19 Q Okay. So between 3:05 p.m. and 8:50 p.m., is there any  
20 location information for this phone?

21 A So after --

22 MR. KENNEDY: Objection to the form of the question,  
23 Your Honor. It excludes SMS and data.

24 THE COURT: Overruled. Go ahead.

25 BY MS. AFFINITO:

1 Q You can answer.

2 A Oh, can you ask me again? I'm sorry.

3 Q Yeah. So between 3:05 p.m. and 8:50 p.m., is there any  
4 location information from these records for -- for the calls?

5 A So after 3:05 and up until 8 -- 8:50, no.

6 Q Okay. And then at line 3455, what do you see?

7 A Cell site location information associated with the 8:50  
8 call.

9 Q Okay. And this is -- is this an incoming call?

10 A Yes.

11 MS. AFFINITO: Okay. So let's publish 2-115 again,  
12 at page 6.

13 BY MS. AFFINITO:

14 Q So does the lower half of this page just depict an excerpt  
15 of the records we were just looking at?

16 A They do, yes.

17 Q Okay. So this is that same period between 3:05 p.m. and  
18 8:50 p.m. local time?

19 A Yes, correct.

20 Q Okay. And there is no cell location information in the  
21 call records for voice usage during that time period, correct?

22 A Correct.

23 Q Okay. And that's in addition to the earlier time period  
24 between 8:37 a.m. and 1:39 p.m., correct?

25 A Correct.

1 Q Okay. So now let's turn to page 7.

2 So what does this slide depict?

3 A This slide depicts two separate blocks of time where the  
4 device appears to have been off the network, only this is for  
5 SMS or test messaging for the same AT&T device, 9223.

6 Q Okay. And when is the last text to or from Michael  
7 Miske's phone on July 30th that has -- or, excuse me, that has  
8 cell location information in this first block that we're  
9 looking at?

10 A 1:15 a.m., in the morning of the 30th.

11 Q Okay. And so this is Item 5902?

12 A Correct.

13 Q Okay. And so -- and we can see there is data generated in  
14 this cell location column, correct?

15 A Correct.

16 Q Okay. So then what's shown for the next items, Items 5903  
17 to 5908?

18 A Those are incoming texts that were made to the device  
19 9223.

20 Q Okay. So there's a -- and these are texts. I guess this  
21 first one you have a notation here, 8:16 a.m., is that the --  
22 the first text?

23 A Correct.

24 Q Okay. And then other texts -- I guess, what are the --  
25 the times of the other texts in local time?

1 A Sure. So at 8:35, incoming text from 1 (808) 829-2126; at  
2 8:44, another one from the 2126 number; and 10:37, another  
3 incoming text from the same 2126 number. Then at 8 -- or I'm  
4 sorry -- 10:54, another incoming text from the same 2126  
5 number.

6 Q Okay. And that 2126 number, that's Ashley Wong's phone  
7 again?

8 A Correct.

9 Q Okay. Were any of these text messages, these five text  
10 messages, delivered between 8:16 a.m. and 10:54 a.m.?

11 A It does not appear to have been so.

12 Q Okay. And how do you know that?

13 A So in the subsequent or the -- the column following below  
14 that, you see text messages in the general same order, the  
15 7535, and then you see the four that all are associated with  
16 the 2126 number.

17 Off to the right you see that there's cell site location  
18 information. If you look at the times, they all come in at  
19 11:06. But for the second, they are in successive order, 50,  
20 51, 52, 53, and 54. When your phone comes back on the network,  
21 those text messages will be delivered.

22 When I landed in Honolulu two Sundays ago, when I turned  
23 my phone back on, the network knew that I was back on the  
24 network. Couple of ways. It automatically adjusted my time to  
25 reflect that I was now three hours' difference from Seattle.

1 It then delivered all those text messages to me at the same  
2 time that I had missed while I was in the air. And that's  
3 happening here. Or at least that is what's reflective of these  
4 records.

5 Q Okay. So just one -- one point also, so you -- I believe  
6 you said 11:06. Is that the correct time?

7 A I'm sorry. One --

8 Q 23:06?

9 A 1:06. 11:06 is the UTC time.

10 Q Okay. So 1:06 p.m. is where you see this activity that  
11 you just described?

12 A Correct.

13 Q Okay. So at that point, at 1:06 p.m., is this phone  
14 connected back to the network?

15 A That's what it appears to be, yes.

16 Q Okay. So -- but between this -- you know, when we're  
17 looking from this period here, 8:16 a.m. through 1:06 p.m.,  
18 there's no cell location activity for this phone for the --  
19 from the text records, correct?

20 A Correct.

21 Q Okay. But you mentioned the -- the earliest cell location  
22 activity, actually on this day, was much earlier; is that  
23 right?

24 A 1:15 in the morning.

25 Q Okay. So between 1:15 a.m. and 1:06 p.m., there's no

1 record in the text call detail records of cell location  
2 information for this phone, correct?

3 A There's no cell site location between those times,  
4 correct.

5 Q Okay. So, then, let's look at the bottom half of this  
6 slide. So what's depicted here?

7 A This is the second block in time on the 30th where there  
8 is -- there's just -- doesn't appear to be any activity on the  
9 30th between approximately 1:32 p.m. and 7:48 p.m. There's no  
10 recorded information in that block.

11 Q Okay. So for text messages, again, in the second period  
12 there's -- there's no -- there's no cell location information?

13 A well, there's no loc -- there's no information.

14 Q Okay. So similar to the voice usage records, the text  
15 records show two periods of time in which there's no activity  
16 or location information?

17 A Yes.

18 Q Okay. And do those periods of time generally overlap with  
19 each other?

20 A Between the voice and text, yes.

21 Q Okay. And so this second period of time, we see down  
22 here, this is from 1:32 p.m. until 7:48 p.m.?

23 A Correct.

24 Q Okay. So between that, you don't see any text activity  
25 with cell location information?

1 A Yes. There's just no activity.

2 Q Okay. So then let's turn now to page 8.

3 So what does this slide depict?

4 A This -- this depicts the data usage for July 30th, 2016,  
5 in which there was two blocks of time that, again, the device  
6 appears to have been off the network.

7 Q Okay. And this is still that same 9223 phone for Michael  
8 Miske?

9 A Correct.

10 Q Okay. So when is the first period of time in which  
11 there's no data usage for the phone?

12 A Starting after 4:15 a.m.

13 Q And going until when?

14 A 1:06 p.m.

15 Q Okay. And so that's reflected in this first box up here  
16 (indicates)?

17 A That's correct.

18 Q Okay. So would you typically expect to see some data  
19 usage during a period of time like that if the phone is on and  
20 connected to the network?

21 A I would expect to see that, yes.

22 Q Okay. I believe you testified earlier that you don't have  
23 to be active when using your phone for data usage to occur,  
24 correct?

25 A For AT&T, that's correct.



1 Q Okay. And then when is the second time period in which  
2 there is no data usage and no cell location information?

3 A So again, this is also -- also on July 30th, 2016. So  
4 after 3:48 p.m. up until 7:47 p.m. there doesn't appear to  
5 be -- well, there's no recorded activity during that block of  
6 time.

7 Q Okay. So that's -- so during this second period of time,  
8 3:48 p.m. to 7:47 p.m., there were no data sessions at all on  
9 this phone?

10 A Correct.

11 Q And there's no cell location information recorded?

12 A None recorded by --

13 Q For that data usage? Sorry.

14 A None recorded by the network.

15 Q Okay. So based on your analysis of the voice, text, and  
16 data call detail records for Michael Miske's phone, what did  
17 you conclude about when it was connected to the network on  
18 July 30th?

19 A So basically, up until approximately 4:15 a.m. and then up  
20 until 1:06 p.m., and then again -- or up until -- between 1:06  
21 and 3:48 and then after 7:47 p.m.

22 Q Okay. So those times you gave are when it was connected  
23 to the network or not connected?

24 A So the banners represent the times where the device  
25 appears to be off the network. So the time preceding, so

1 basically midnight until 4:15 a.m. the device appears to have  
2 been on the network, comes back on the network at approximately  
3 1:06 p.m. And then after 3:48 until 7:47 p.m., it's back off  
4 the network until it comes back on after 7:47 p.m.

5 Q Okay. So between 4:15 a.m. and 1:06 p.m., was the phone  
6 connected to the network, based on your analysis?

7 A No.

8 Q Okay. And then between 1:06 p.m. and 3:48, was the phone  
9 connected to the network, based on your analysis?

10 A Between 1:06 and 3:48?

11 Q Yes.

12 A Yes.

13 Q It was, okay. And then between 3:48 p.m. and 7:47 p.m.,  
14 was the phone connected to the network, based on your analysis?

15 A No.

16 Q And then after 7:47 p.m. on July 30th, was Michael Miske's  
17 phone connected to the network?

18 A Yes.

19 Q Okay. So I guess, what, if anything, did you conclude  
20 about the state of his phone during those time periods in which  
21 it does not appear to be connected to the network?

22 A That for one of those previous reasons that I had  
23 mentioned, the phone not being visible to the network by either  
24 being out of network coverage, being off by manually turned  
25 off, being off by the battery dying, or being off and invisible

1 to the network via airplane mode.

2 Q Okay. So now let's turn to page 9.

3 So what's depicted in this slide?

4 A So this represents the towers and sides of the towers  
5 being used by the device 9223 and device 9064 during selective  
6 events on -- between 1:11 p.m. and 2:23 p.m.

7 Q Okay. And then that -- that number in green, 9223, this  
8 is Michael Miske's phone?

9 A Correct.

10 Q And then the number in red, nine -- and ending in 9064,  
11 that's Jason Yokoyama's phone?

12 A Correct.

13 Q So during this time period, 1:11 p.m. to 2:23 p.m., is  
14 this during the time period when Michael Miske's phone is  
15 reconnected to the network?

16 A It is.

17 Q Okay. So what activity do you see in the records?

18 A So there's -- at 1:11 p.m., there's outgoing texts from  
19 9223 to 9064. The circular number, the "one" with the black  
20 background fill, that denotes the tower and sector identifier  
21 that was used to facilitate those events.

22 So the banners in blue, I guess I can use my finger, these  
23 represent the tower (indicates) and the side of the tower that  
24 were being used for those respective events at 1:11.

25 At 1:32, you see an incoming text message from 9064 that

1 is using this tower (indicates) and this respective side of the  
2 tower for that particular event.

3 And then at 1:39 p.m., you see an incoming call that goes  
4 to voicemail, appears, and that is denoted by -- going back to  
5 the left side -- using this particular tower and side of the  
6 tower for those events (indicates).

7 Q Okay.

8 A And then in the middle, as illustrated in red, at  
9 2:23 p.m. you see incoming voicemail record for the number  
10 ending in 9064. And that is using this cell site (indicates)  
11 and -- or the cell tower and side of the tower that is  
12 illustrated here, in between those opposing or opposite,  
13 opposing, facing each other, green cell towers and sectors.

14 Q Okay. So if we can just go through that.

15 So at 1:11 p.m., you see in green this wedge (indicates).  
16 This is the wedge that's showing that -- that particular text  
17 message, correct?

18 A Yes.

19 Q The tower?

20 A This one right here, 70.

21 Q Okay. And then at 1:32 p.m., it's this wedge on the right  
22 in green; is that correct?

23 A Correct. This one (indicates).

24 Q Okay. And then at 1:39 p.m., it's another wedge on the  
25 left in green?

1 A Correct. This one (indicates).

2 Q Okay. And then we have the -- the wedge in red in the  
3 middle.

4 Okay. So then when we're talking about these first two  
5 text messages, outgoing text messages at 1:11 p.m. on  
6 July 30th, these are from Michael Miske's phone, correct?

7 A Correct. They are outgoing.

8 Q And they're outgoing to the number ending in 9064,  
9 correct?

10 A Correct.

11 Q And that is Jason Yokoyama's phone?

12 A Correct.

13 Q Okay. And then at 2 -- I guess the number 2, at  
14 1:32 p.m., there's an incoming text message to Michael Miske's  
15 phone, correct?

16 A Correct.

17 Q And that's an incoming text from Jason Yokoyama's phone?

18 A Correct.

19 Q Okay. And then in the -- the incoming call that we see to  
20 Jason Yokoyama's phone in red, that goes to voicemail, correct?

21 A Can you ask that again?

22 Q This -- so this incoming call to Jason Yokoyama's phone at  
23 2:23 p.m., does this go to voicemail?

24 A That's what it appears to be, yes.

25 Q Okay. And so is Michael Miske's phone during this time

1 period connecting to towers in this waialae-Kahala and, I  
2 guess, Kaimuki areas?

3 A Yes. I would expect to find the device somewhere in that  
4 area.

5 Q Okay. And that's the same general area of the tower to  
6 which Jason Yokoyama's phone is connecting at 2:23 p.m.,  
7 correct?

8 A Generally correct, yes.

9 Q Okay. Do you -- do you happen to know whether Jason  
10 Yokoyama lives in this area?

11 A I don't believe he does. No.

12 Q So now let's turn to page 10.

13 So what is depicted in this slide?

14 A This is activity for July 30th, 2016, between 7:48 p.m. to  
15 8:13 p.m. for device 9223. This shows towers and sectors, or  
16 towers and sides of the towers, being used for those respective  
17 text messages during that time frame, which shows the devices  
18 down in the -- the Kakaako area.

19 Q Okay. And this 9223 number again, this is Michael Miske's  
20 phone?

21 A Correct.

22 Q In green? Okay.

23 So you say this starts at nine -- or, excuse me, this  
24 starts at 7:48 p.m. and goes until 8:13 p.m., correct?

25 A Correct.

1 Q Okay. Is there anything significant about that time,  
2 7:48 p.m.?

3 A It's the second time after the device comes back on the  
4 network from that block on July 30th -- or I guess this is  
5 July 30th. It's that second time in the day where the device  
6 appears to come back on the network.

7 Q Okay. So this is right after the device, again, connects  
8 to the network?

9 A Yes.

10 Q Okay. And you said during this time period Michael  
11 Miske's phone is in the Kakaako area?

12 A It's using towers that surround that general area, yes.

13 Q Okay. So then in the -- the box on the right, what's  
14 depicted here?

15 A So the box on the right illustrates the text message  
16 exchange between the 9223 number and the 9064 number during  
17 that time frame 7:48 to 8:13, incoming and outgoing text  
18 messages using different tower locations and sides of the  
19 towers in that area.

20 Q Okay. So -- and again, so these are texts, incoming and  
21 outgoing, between Michael Miske's phone and Jason Yokoyama's  
22 phone?

23 A Correct.

24 Q Between 7:48 p.m. and 8:13 p.m.?

25 A Correct.

1 Q And this is right after Michael Miske's phone connects  
2 back to the network?

3 A Soon after, yes, correct.

4 Q Okay. And how many texts are depicted here? How many  
5 texts were there exchanged between Michael Miske's phone and  
6 Jason Yokoyama's phone during that time period?

7 A So there's 15 illustrated here during that time frame.

8 Q Okay. Now let's turn to page 11.

9 So what's depicted in this slide?

10 A So this shows the towers and sides of the towers that were  
11 being used on July 30th, 2016, between 8:13 p.m. and 9:25 p.m.,  
12 between three different devices, the device 9223, 9064, and  
13 8799. Again, the colors that are represented in the upper part  
14 for the numbers -- so 9223, green; 9064, red; 8799, blue --  
15 those are consistent with the colors of the wedges in the  
16 illustration below.

17 Q Okay. And again, 9223 in green, that's Michael Miske's  
18 phone?

19 A Correct.

20 Q And is the 9064 number in red, that's Jason Yokoyama's  
21 phone, correct?

22 A Correct.

23 Q And then the number in blue, ending in 8799, that's Lance  
24 Bermudez's phone, correct?

25 A Correct.



1 Q Okay. So during this time period, are all of their phones  
2 connecting to towers in the Kakaako and Ala Moana areas?

3 A Yes, they are.

4 Q Okay. And then in the box across the top in gray, are  
5 these just the incoming and outgoing calls and texts for these  
6 phones?

7 A Yes. These -- these illustrate the particular type or a  
8 specific type of event for each of those respective numbers.

9 Q Okay. So then if we start on the left, looking at Michael  
10 Miske's phone here in green, are these text messages?

11 A Yes, those are text messages.

12 Q Okay. And whose phone is Michael Miske's phone texting  
13 with?

14 A 9064, so Jason Yokoyama.

15 Q Okay. And then let's go and look at the one in the  
16 middle. So this in red, this is Jason Yokoyama's phone?

17 A Correct.

18 Q Okay. And whose phones are Jason Yokoyama's phone  
19 connecting with?

20 A I don't recognize the top number, but the bottom number is  
21 the 9223 number.

22 Q So that's Michael Miske's phone?

23 A Correct.

24 Q Okay. And then so, I guess, why don't we see sort of the  
25 same location data on Jason Yokoyama's phone for all of the

1 texts that we see on Michael Miske's phone for texts that are  
2 with Jason Yokoyama?

3 A They weren't reflected in the T-Mobile records for 9064.

4 Q Okay. But Michael Miske has AT&T, correct?

5 A Correct.

6 Q So his records were different than the T-Mobile records  
7 for Jason Yokoyama?

8 A That's correct.

9 Q So then on the right here, in blue, this is Lance  
10 Bermudez's phone; is that correct?

11 A Correct.

12 Q Okay. And what do we -- what do we see here?

13 A So between 8:36 p.m. and 9:25 p.m., you see one incoming  
14 voice call, one text message, and then one outgoing voice call.

15 Q Okay. So let's look at -- so this -- this incoming text  
16 at 9:08 p.m., what is the phone number that's sending that text  
17 message?

18 A (808) 479-2795.

19 Q Okay. Then at 9:25 p.m., there's an outgoing call from  
20 Lance Bermudez, correct?

21 A Correct.

22 Q And that's to that same phone number ending in 2795?

23 A Correct.

24 MS. AFFINITO: Okay. Can we please publish  
25 Exhibit 1-480 from the government's original list, which is

1 already in evidence?

2 THE COURT: Yes. Go ahead.

3 BY MS. AFFINITO:

4 Q So this is Lance Bermudez's contacts list; is that  
5 correct?

6 A Yes, I believe so.

7 Q Okay. If we could turn to page 3, lines 18 and 19.

8 So what is the name listed in each of these two rows?

9 A Jesse Cabana.

10 Q Okay. And what is the phone number -- I guess, what's the  
11 first phone number listed in each of these two rows?

12 A 1 (808) 479-2795, and it's the same phone number for the  
13 cell above in 18 and cell below in 19, three rows over.

14 Q Okay. And that 2795 number associated with a Jesse  
15 Cabana, is that the same phone number that we just saw Lance  
16 Bermudez's phone communicating with on July 30th?

17 A Correct.

18 Q Okay. And so those -- that was at 9:08 p.m. and  
19 9:25 p.m.?

20 A I believe that's correct, yes.

21 MS. AFFINITO: Okay. And can we please publish  
22 Exhibit 2-134 from the government's original list, which is  
23 also already admitted?

24 THE COURT: Go ahead.

25 BY MS. AFFINITO:

1 Q Okay. At the top here, this says T-Mobile, correct?

2 A Correct.

3 Q Okay. And if we turn to page 2, do you recognize these as  
4 T-Mobile phone usage records?

5 A Yes.

6 Q Okay. And if we could zoom in at the top, where it says  
7 "Statement For," what does that say?

8 A Mark Agnir.

9 Q So this is a statement for someone named Mark Agnir?

10 A That's what it appears to be, yes.

11 Q Okay.

12 MS. AFFINITO: Can we now turn to page 17.

13 And zoom in on the entries for July 21st at 5:04 --  
14 excuse me -- 5:00 p.m. and 5:04 p.m.

15 BY MS. AFFINITO:

16 Q So what is shown in these two entries?

17 A Two entries for July 21st, 2016, one at 5:00 p.m., the  
18 other at 5:04 p.m. Both denoted as incoming and both list the  
19 number as (808) 479-2795.

20 Q Okay. So -- and this is that same number attributed to  
21 Jesse Cabana?

22 A Correct.

23 Q So these are two calls to a phone for Mark Agnir from a  
24 phone for Jesse Cabana; is that right?

25 A They appear to be incoming calls from that number, yes.

1 Q Okay. So then if we could go down on this same page to  
2 the entries for July 22nd, between 5:54 p.m. and 6:25 p.m.

3 Do you see here three additional entries involving Jesse  
4 Cabana's number?

5 A Correct.

6 Q And are these incoming or outgoing calls?

7 A So at 5:54 it's denoted as incoming. At 5:56 it looks  
8 like an outgoing. And then at 6:25 it's denoted as incoming.

9 Q Okay. So let's now go back to Exhibit 2-115, page 12.

10 So what does this slide depict?

11 A This slide depicts a single incoming call from (808)  
12 829-2126 to the 9223 number, on July 30th, 2016, at 11:27 p.m.

13 Q Okay. And the 9223 number, this is Michael Miske's phone?

14 A Correct.

15 Q And the 2126 number, this is Ashley Wong's phone?

16 A Correct.

17 Q So this is a -- an incoming call to Michael Miske's phone  
18 from Ashley Wong's phone, at 11:27 p.m., correct?

19 A That's correct.

20 Q Okay. And the yellow marker here, what does that  
21 represent?

22 A 1226 Kuuna Street, Mike Miske's residence.

23 Q Okay. And from the call records and location information,  
24 would you expect to find Michael Miske's phone in his residence  
25 at the time of this call?

1 A At the time this call was recorded by the AT&T network, I  
2 would expect to find the device somewhere on this left side of  
3 the blue banner (indicates).

4 Q Okay. So not -- so not in his residence, correct? At the  
5 yellow banner?

6 A I wouldn't expect to find it over there, no.

7 Q Okay. And -- and why not?

8 A Because remember, towers and sectors provide coverage to  
9 different -- or sectors provide different coverage to different  
10 sides of a -- of a tower. And so here, what is being  
11 illustrated is a tower and sector providing coverage to --  
12 facing towards the Waimanalo Forest area.

13 Q Okay. Let's now turn to page 13.

14 what does this slide depict?

15 A So this slide depicts or illustrates phone activity,  
16 location of towers and sectors being used by device 8799 on  
17 July 31st, between 12:12 a.m. and 12:20 a.m.

18 Q Okay. 8799, this is Lance Bermudez's phone?

19 A Correct.

20 Q Okay. And, I guess, where would you expect to find his  
21 phone during this time period?

22 A So I would expect to find the phone, based on this tower  
23 and sector usage for these particular events, I would expect to  
24 find it somewhere in this area that I'm marking in green  
25 (indicates).

1 Q Okay. So this is in between sort of the three wedges that  
2 you see here in blue?

3 A Correct. And this is approximate. I wouldn't expect to  
4 find it like on the outsides of those.

5 Q Okay. But I guess generally would you expect to find  
6 Lance Bermudez's phone in the Hawaii Kai area?

7 A Yes. Like I said before, I would -- down here in this  
8 area that I've made a mess of (indicates).

9 Q Okay. And this is during the time period of 12 --  
10 12:00 a.m. until 12:20 a.m.; is that correct?

11 A Correct.

12 Q Okay. So, then, if we look at the box on the -- in the  
13 top right, so what do the first three lines show for this time  
14 period at 12:12 a.m.?

15 A These show outgoing calls, voice calls, to (808) 479-2795,  
16 which was that number previously mentioned for Jesse Cabana.

17 Q Okay. So these are three outgoing calls from Lance  
18 Bermudez's phone to Jesse Cabana's phone?

19 A Correct.

20 Q Okay. And then right below that, at 12:13 a.m., there is  
21 an outgoing call from Lance Bermudez's phone, correct?

22 A Correct.

23 Q And whose phone is Lance Bermudez's phone calling?

24 A The phone associated with Jason Yokoyama.

25 Q Okay. And you don't recognize the numbers here at 12:16

1 and 12:20 a.m., do you?

2 A I do not.

3 Q Okay. So now let's turn to page 14.

4 THE COURT: Counsel, when you're done with asking  
5 questions relating to page 14 of the expert's report, it  
6 probably is a good time for us to take our break.

7 MS. AFFINITO: Okay. It'll be, I don't know, maybe  
8 10, 15 minutes or we can take a break now.

9 THE COURT: If it's going to be that long, maybe we  
10 should take a break now. Because we're already at the  
11 two-hour -- approximately two-hour mark this morning, so thank  
12 you.

13 Let's go ahead and do our break now. As we go to  
14 break for the first time this trial day, I'll remind our jurors  
15 to please refrain from discussing the substance of this case  
16 with anyone, including each other; to also refrain from  
17 accessing any media or other accounts of this case that may be  
18 out there; and finally, please do not conduct an investigation  
19 of your own into anything relating to this case.

20 We'll see you in a few minutes.

21 COURTROOM MANAGER: All rise for the jury.

22 (The jury was excused at 10:35 a.m.)

23 (The proceedings recessed at 10:35 a.m. until 10:57 a.m.)

24 (Open court in the presence of the jury.)

25 THE COURT: You may be seated.



1 All right. Back from our first break of the trial  
2 day, Ms. Affinito, you may resume your direct.

3 BY MS. AFFINITO:

4 Q So I just want to first -- let's circle back to something.

5 MS. AFFINITO: If we could pull up Exhibit 2-117B,  
6 which we looked at earlier, which is admitted.

7 BY MS. AFFINITO:

8 Q Okay. So this is the subscriber information for Delia's  
9 phone, correct?

10 A Correct.

11 Q Okay. And if you look at -- I guess, let's look at the  
12 first two blocks here, for subscriber details and account  
13 details.

14 For the subscriber name effective date, what is the date  
15 listed there?

16 A July 27th, 2016.

17 Q Okay. And then for the activation date, what is the date  
18 listed there?

19 A The same, July 27th, 2016.

20 Q Okay. And so what does that tell you about when service  
21 started on this phone?

22 A That's usually consistent with when service was initiated  
23 or activated for this particular phone number, or device.

24 Q Okay. So service was initiated on July 27 of 2016 for  
25 Delia's phone?

1 A That's what it appears to be in these records, yes.

2 Q And so that's a few days before the July 30th time period  
3 that you're focusing on in your report; is that correct?

4 A That's correct.

5 MS. AFFINITO: Okay. We can take this down.

6 And if we could go back to Exhibit 2-115, page 14.

7 BY MS. AFFINITO:

8 Q Okay. So what does this slide depict?

9 A This slide depicts activity for the numbers 8799 and 9064  
10 on July 31st, 2016, between approximately 12:12 a.m. or  
11 midnight a.m. and 4:45 a.m.

12 Q Okay. And again, in blue, that number ending 8799, this  
13 is Lance Bermudez's phone?

14 A Correct.

15 Q And then the number in red, ending 9064, this is Jason  
16 Yokoyama's phone, correct?

17 A Correct.

18 Q Okay. So first, let's just -- there's only one data point  
19 here for Jason Yokoyama; is that correct?

20 A That's correct. Incoming call at 12:13 a.m.

21 Q Okay. And who is that incoming call from?

22 A The 8799 device, also illustrated in this slide.

23 Q So that's Lance Bermudez's phone?

24 A Correct.

25 Q Okay. And where is Jason Yokoyama's phone located at this

1 time period, 12:13 a.m.?

2 A So as illustrated using the red wedge, towards the bottom,  
3 bottom center of the screen, it's facing up towards the  
4 location of the M Nightclub, so I would expect to find the  
5 device somewhere in that Honolulu area around where that  
6 M Nightclub banner is illustrated on the slide.

7 Q Okay. So now, why don't you take the jury through the  
8 movement of Lance Bermudez's phone during these early morning  
9 hours of the July 31st?

10 A Sure. So again, using those numbers, those correspond  
11 with the towers and sides of the towers that were being used  
12 for these respective events. So starting at 12:12, on the  
13 bottom lower right-hand corner, you see Number 1 and you see  
14 those four events associated with that first tower and sector.

15 So from basically the top four outgoing voice calls listed  
16 on the upper right in that call out box.

17 Then on the second, or Tower Number 2, I'll just refer to  
18 it as, this one here (indicates), you see -- and this is pretty  
19 duplicative of I believe the previous slide, whereas it shows  
20 that activity in the Hawaii Kai area.

21 So at 12:16, also on the 31st, you see it using this  
22 Number 2 tower and sector.

23 Number 3, it shows that additional tower and sector in  
24 that same kind of Hawaii Kai area. That's at 12:20.

25 Then Tower 4, which moves over towards Honolulu area, so

1 at 12:41, 8799 is using the tower and sector in that Ala Moana  
2 area.

3 At Number 5 -- I'm sorry -- at 4 still.

4 Q Sorry. So --

5 A Yeah. I'm going to clarify the 4.

6 Q (Gestures.)

7 A All right. I'm sorry. I got lost.

8 Q Just let me ask.

9 So at 4, so for -- okay, so when we're looking at 4 here,  
10 there's a few at 12:41 a.m. There's --

11 MS. AFFINITO: You don't have to enlarge it.

12 BY MS. AFFINITO:

13 Q There's an incoming voice call and then a couple incoming  
14 texts; is that right?

15 A Correct.

16 Q Okay. And that refers to the connection at this tower,  
17 correct?

18 A Correct.

19 Q Here?

20 A And you see two different entries for 4.

21 Q Is that this second one here at 1:38 a.m.?

22 A Correct. That's because there's a different device,  
23 different technologies being used. They're co-located at the  
24 same -- that's why you see these two different indicators there  
25 for the tower ID, essentially. And so 12:41, you have those

1 three transactions and then using that 30083 tower, so that  
2 first part there. And then at 1:38:36 it's using this 85432.

3 Q Okay. But it's -- are those -- is it located in the same  
4 area?

5 A Correct.

6 Q Okay. All right. So then -- then let's move on to -- at  
7 2:44 a.m., for 5. Where does Lance Bermudez's phone go?

8 A So that device is using the tower and sector up here,  
9 facing towards the Waimalu area.

10 Q Okay.

11 A And that's at 2:44.

12 Q Okay. So in between the locations that are marked at 4,  
13 the -- the last -- this one here (indicates) at 1:38 a.m.,  
14 which is -- you said is down here in the Ala Moana area; is  
15 that correct?

16 A That's correct.

17 Q Okay. So between that and then the time period at 5, up  
18 here in between sort of Pearl City and Aiea, how much time has  
19 passed?

20 A It looks to be a little over an hour.

21 Q Okay. So from 1:38 a.m. until 2:44 a.m.?

22 A Correct.

23 Q Okay. And what is the -- again, what's this purple marker  
24 on the far left?

25 A So that denotes the location of where a van was on fire

1 that the fire department and law enforcement had responded to.

2 Q Okay. And do you know the time that the -- that the van  
3 was reported burning to law enforcement?

4 A To law enforcement, I believe it was at 2:42 a.m. on the  
5 31st.

6 Q Okay. And so that's slightly before when Lance Bermudez's  
7 phone pings off a tower in this area marked at 5, correct?

8 A Or utilizing a tower and sector in that area, correct.

9 Q Okay. So -- and that's, again, at 2:44 a.m.?

10 A Number 5. That's correct, 2:44.

11 Q Okay. So then what do we see at 6?

12 A So at Number 6 you see that 8799 device utilizing a tower  
13 and sector for two outgoing calls, 3:52 a.m., back in that  
14 general Ala Moana area.

15 Q Okay. And so, again, I guess, what's the time that has  
16 elapsed between where the phone is, or the -- at 5 and where  
17 the phone is at 6?

18 A Over an hour.

19 Q Over an hour, okay.

20 And then if we look back at 4, there's one additional  
21 entry here. In parentheses it says 4:45 a.m.; is that right?

22 A That's correct.

23 Q Okay. So what does that signify?

24 A So it's, again, using that same tower or that same general  
25 location and tower -- tower and sector location as the previous

1 ones at 12:41. So it's in that same general area. I would  
2 expect to find the device in that same general area in Ala  
3 Moana.

4 MS. AFFINITO: Okay. Nothing further.

5 THE COURT: Mr. Kennedy, you can cross when you're  
6 ready.

7 CROSS-EXAMINATION

8 BY MR. KENNEDY:

9 Q Good morning, sir.

10 A Good morning, sir.

11 Q So I'll start with the phones that you were asked to look  
12 at, okay?

13 The first phone ended in 9223, correct?

14 A Correct.

15 Q And you through basis of information attributed that phone  
16 to Mr. Miske, correct?

17 A Correct.

18 Q All right. And the second phone was 6074. Through basis  
19 of documents that we've seen you attributed that phone to  
20 Ms. Fabro, or Ms. Fabro-Miske?

21 A Correct.

22 Q All right. And 8799 was a phone that was attributed to  
23 Mr. Bermudez, Lance Bermudez?

24 A Correct.

25 Q And 9064 was a phone that was attributed to Jason

1 Yokoyama, correct?

2 A Correct.

3 Q All right. Now, you did not analyze a phone which is  
4 7976, correct?

5 A That does not sound familiar to me.

6 Q All right. Did the name Dae Han Moon come up in any of  
7 your work?

8 A Not in what I produced.

9 Q All right. You were not asked to take a look at a phone  
10 which is 6261?

11 A I don't recall that number.

12 Q Did the name Jacob Smith come up in your work?

13 A Not in this analysis.

14 Q All right. And did the -- were you asked to take a look  
15 at a phone which is 9427 as the last two -- last four digits?  
16 I apologize.

17 A 9427 doesn't sound familiar to me.

18 Q Okay. A phone associated with James "Turtle" Salas?

19 A That does not sound familiar to me.

20 Q With the last four digits 6795 for a Mr. John Stancil?

21 A Not for this analysis.

22 Q All right. Now, in this analysis, I think you prepared  
23 a -- an initial report. I believe that may have been in  
24 December of 2023?

25 A That sounds accurate, yes.



1 Q And then finalized the one that the jury has seen, and I  
2 believe that looks to be April 24th of this month?

3 A Correct.

4 Q 2024?

5 A Yes, sir.

6 Q All right. In your work, did you take a look -- are you  
7 familiar with a CAST member by the name of Andrew Masters?

8 A I am.

9 Q And do you know him to be with the -- the FBI CAST,  
10 Cellular Analysis Survey Team?

11 A I do.

12 Q All right. Did you take a look at his work back in  
13 December of 2019, with respect to your work?

14 A I don't recall the date on the draft, but I was provided a  
15 draft by him.

16 Q All right. And so that the draft, were you aware that he  
17 was looking at historical cellular analysis, correct?

18 A Correct.

19 Q Similar to what you've been testifying about, correct?

20 A Correct.

21 Q All right. And among the individuals that were  
22 Mr. Masters's analysis are the four phones and individuals that  
23 we've been talking about here, correct?

24 A Correct.

25 Q And there were some additional ones, correct?

1 A I believe so, yes.

2 Q All right. Were you aware that one of those was a number  
3 (808) 772-7976 for Dae Han Moon?

4 A Are you saying Moon?

5 Q Moon, as in sun and moon, yes.

6 A So the name sounds familiar, but the -- the number  
7 doesn't.

8 Q Okay. And were you asked, did you -- were you aware that  
9 his analysis looked at Mr. Moon?

10 A I believe so, but I -- I don't recall. Sorry.

11 Q And I take it for your analysis you were directed not to  
12 look at Mr. Moon; is that correct?

13 A I don't recall being directed not to look at Moon, and  
14 that I recall -- I know that I was asked to look at the four  
15 numbers that I analyzed.

16 Q Okay. You didn't do anything with respect to the call  
17 detail records that would have cell site information for  
18 Mr. Moon?

19 A That's correct.

20 Q All right. Now, do you recall that Mr. Masters back in  
21 2009 looked at a phone (808) 286-9427?

22 A In two -- I'm sorry, two thousand nine --

23 Q '18?

24 A Oh, 2018. I'm sorry. Could you repeat the number?

25 Q I'm talking over you, and it's my mistake.

1 His analysis, the draft that you said that you reviewed.

2 were you aware that he looked at a number 808 -- (808) 286-9427  
3 associated with a Mr. James "Turtle" Salas?

4 A I don't recall all the numbers that he analyzed.

5 Q All right. And were you aware that he looked at  
6 (808) 479-6281, associated with a Jacob Smith?

7 A I don't recall.

8 Q All right. And finally, an (808) 216-6795, associated  
9 with a John Stancil?

10 A Like I said, I remember the name, but that number doesn't  
11 ring a bell with me and I don't recall if that was in his  
12 analysis.

13 Q Okay. And so for your analysis, you -- you focused in on  
14 the four numbers solely, not the four numbers that I just  
15 mentioned?

16 A That's correct, yes.

17 Q In terms of any historical cell phone analysis with  
18 respect to those phones?

19 A That's correct, yes.

20 Q All right. Now, on --

21 MR. KENNEDY: If we can pull up Exhibit 2-115,  
22 page 2?

23 THE COURT: Go ahead.

24 BY MR. KENNEDY:

25 Q This is what we've seen is a summary of your analysis,

1 correct?

2 A That's correct, yes.

3 Q And I -- and I think that there are numerous data points  
4 that could be placed in here in terms of when a cell phone  
5 connects to a cell tower, correct?

6 A Well, there's thousands of lines of data, yes, sir.

7 Q All right. Okay. And so what we're getting is a selected  
8 group of those, correct?

9 A A summary, yes, that's correct.

10 Q All right. Now, the time analysis, you were asked in  
11 direct between 8:00 a.m. on July 30th, correct?

12 A Correct.

13 Q And to 4:45 a.m. on July 31st, correct?

14 A I think I may have been asked to just go to 4:00. I think  
15 I took the liberty with 4:45 because of a -- a particular data  
16 set in there.

17 Q Okay.

18 A Right.

19 Q Fair enough.

20 Now, I take it you looked at the historical cell site  
21 information for the entire day on July 30th, starting at, say,  
22 midnight?

23 A For all the numbers?

24 Q Yes.

25 A I don't believe I looked at it for all the numbers.

1 Q All right. Let me ask you this.

2 Did you look at it for the number -- which is in green  
3 here -- (808) 476-9223?

4 A I believe I looked at the majority of the records for that  
5 day, yes.

6 Q All right. So based upon your analysis, between the hours  
7 of midnight and 4:15 a.m., did you see historical cell site  
8 information for the number (808) 476-9223?

9 A I believe so.

10 Q And each -- between midnight and 4:15, was that phone in a  
11 location near a cell tower of the M Nightclub?

12 A I don't recall off the top of my head.

13 Q Do you have the data there to check?

14 A Not in front of me, no, sir.

15 Q Okay. That information is available, correct?

16 A I would expect to find it in the call detail records.

17 Q All right. So did you see that there were two cell towers  
18 during those -- 12:00 to 4:15 time period, at midnight, that  
19 the phone number 9223 was connecting to that morning?

20 A I -- I can't speak to that --

21 Q All right.

22 A -- without --

23 Q As background for your position, did you understand that  
24 Mr. Miske owned the M Nightclub?

25 A Yes, that was my understanding.

1 Q All right. The -- the 30th of 2016 was a Saturday  
2 morning, correct?

3 A I believe so, yes.

4 Q All right. And so during that time period, if -- well,  
5 I'll say because you don't have the memory and you don't have  
6 your data in front of you, you could plot between midnight and  
7 4:15 and the jury could see exactly where that 9223 phone was  
8 during that time, correct?

9 A I would have to look back at the data for those three  
10 datasets to see if there was cell site location information  
11 associated with those, if I recall correctly, as to what you're  
12 asking me to do --

13 Q All right.

14 A -- yeah.

15 Q All right. Now -- and I'll ask it in a hypothetical.

16 If that phone was pinging, connecting to the cell tower,  
17 either through the three ways, voice calls, data transfer, or  
18 SMS messaging, between 8 -- excuse me -- midnight and 4:15, if  
19 that data is there, one can plot it and the jury could see it,  
20 correct?

21 A Hypothetically, if the data is there, then, yes.

22 Q You were not asked to do that by the government, correct?

23 A With regard to that specific time frame?

24 Q Yes.

25 A I don't recall.

1 Q 'Cause it looked like the time frame of analysis begins at  
2 8:00 a.m., correct?

3 A On -- for the July 30th.

4 Q All right. Now, hypothetically, if someone works till  
5 4:15 in the morning, returns to their home and sleeps, a phone  
6 can be turned off while someone is sleeping, correct?

7 A I can't guess or speculate as to, you know, people's  
8 habits with their phones.

9 Q All right. Let me ask you this.

10 A phone can be on while someone's sleeping, right?

11 A Yes.

12 Q A phone can be off while someone's sleeping, correct?

13 A Correct.

14 Q If the phone is off, it doesn't connect to a cellular  
15 tower, correct?

16 A Correct.

17 Q If the phone is off and it's being charged, it doesn't  
18 connect to a cellular tower, correct?

19 A If the phone is off and not connected to the network I  
20 would not expect to see any data.

21 Q If the phone was on and it was in airplane mode, for  
22 whatever reason, it would not connect to a cellular tower,  
23 correct?

24 A I would not -- I would not expect to see records if it's  
25 in that mode.

1 Q And if the phone is dead, no longer has a charge, it would  
2 not connect to a cellular tower, correct?

3 A Not in that state, no.

4 Q All right. Now, on page 2 of 2-115 you have some areas  
5 and addresses and locations, correct?

6 A Yes, sir.

7 Q All right. And I want to -- one of those is Mr. Miske's  
8 residence, correct?

9 A Correct.

10 Q One of those is Ms. Delia Miske's residence, correct?

11 A Correct.

12 Q We've got Kama'aina Termite and Pest Control, correct?

13 A Correct.

14 Q And you understood that to be a location associated with  
15 Mr. Miske, correct?

16 A Correct.

17 Q As the owner of that business, correct?

18 A Correct.

19 Q And M Nightclub, you understood it to be a location  
20 associated with Mr. Miske as the owner of the M Nightclub,  
21 correct?

22 A That's correct.

23 Q And we'll get to it, but Jason Yokoyama you understood to  
24 be the -- associated with the M Nightclub as well?

25 A Yes, sir.



1 Q As the general manager, correct?

2 A I believe manager, so yes, generally.

3 Q All right. Now, I want to ask you about one location.

4 You have Kewalo Basin Harbor here?

5 A Yes, sir.

6 Q All right. Were you asked to place that symbol on your  
7 summary?

8 A That was one of the key locations provided to me by the  
9 investigators that requested the analysis.

10 Q All right. So you did not choose to place that on there;  
11 someone in the investigation told you that was a critical  
12 place, correct?

13 A Yes. All the locations provided to me.

14 Q All right. Now, the harbor, by definition, sounds to me  
15 like somewhere where a boat might be, correct?

16 A I would -- I would agree with that, yes, sir.

17 Q All right. And when you're doing this you'd like to have  
18 the best information that you possibly could, correct?

19 A I like to have the information that it's necessary to  
20 complete the analysis.

21 Q Right. I've heard you testify this morning and you seemed  
22 to me to be a pretty straight shooter?

23 A I try to be.

24 Q All right. So that's why I asked you if that was provided  
25 to you.

1 MR. KENNEDY: If we could pull up 9011-082, which is  
2 not yet in evidence, Your Honor. It's on the first  
3 supplemental, I believe.

4 THE COURT: Go ahead.

5 BY MR. KENNEDY:

6 Q And if you could just read that to yourself, sir.

7 A (Complies.) Okay.

8 Q All right. And if we could flip to the second page.

9 And just take a look at that information.

10 A (Complies.) Okay.

11 Q All right. And if we turn to the third page.

12 A Okay.

13 Q And if we turn to the fourth page.

14 And is there a fifth page?

15 A There's just a banner with them -- okay.

16 Q I don't know where that came from.

17 A Can you go back to where --

18 Q That looked to be something that was misplaced.

19 MR. KENNEDY: Your Honor, may I approach, after  
20 showing something to the government?

21 THE COURT: What is this that you're approaching  
22 with?

23 MR. KENNEDY: I'm approaching with the satellite  
24 imagery of a boat and a location on July 30th, at 21:25 UTC  
25 time, which would be 11:25 on July 30th of 2016.

1 THE COURT: And this is not an exhibit?

2 MR. KENNEDY: It is not yet an exhibit. It was shown  
3 earlier to an earlier witness, but it has not been admitted  
4 yet. And it is 9011-082. And it looks like it's page 119, at  
5 least on the sheet I'm looking at.

6 MS. AFFINITO: The government would object as to  
7 relevance.

8 THE COURT: If this is marked as an exhibit, why is  
9 it necessary to approach?

10 MR. KENNEDY: It looks like whatever is being shown  
11 up here is cut off, Your Honor, in terms of the digital  
12 exhibit. That's why.

13 THE COURT: So you want to show the witness 9011-82,  
14 page 119?

15 MR. KENNEDY: Yes.

16 THE COURT: 9011-82 is an exhibit that consists of 42  
17 pages.

18 MR. KENNEDY: That's correct, and I --

19 THE COURT: So how could you be showing him page 119?

20 MR. KENNEDY: I'm sorry. 0019, Your Honor, if I  
21 misspoke.

22 THE COURT: Okay. I have it in front of me. And  
23 your electronic version is not working; is that what you're  
24 saying?

25 MR. KENNEDY: Yes. It doesn't appear to be.

1 THE COURT: All right. Go ahead. You can show it to  
2 him.

3 MS. AFFINITO: I mean, I guess, we'd renew the same  
4 objection as to the relevance of this.

5 THE COURT: You can show it to him. Go ahead.

6 MR. KENNEDY: May I approach, Your Honor?

7 THE COURT: Yes, you may.

8 THE WITNESS: (Reviews document.)

9 MR. KENNEDY: May I approach, Your Honor?

10 THE COURT: Yes.

11 THE WITNESS: Oh, you take it back?

12 MR. KENNEDY: Yes.

13 THE WITNESS: Oh, okay.

14 MR. KENNEDY: And if we move back to page 2 of this  
15 document.

16 BY MR. KENNEDY:

17 Q Sir, were you provided with information which showed the  
18 Boston whaler named as PAINKILLER was in a harbor on the  
19 windward side of this island, in Kaneohe, not Honolulu, on  
20 July 30th, 2016, UTC time at --

21 MS. AFFINITO: Objection. Scope, relevance, and  
22 defense counsel's testifying in his question.

23 MR. KENNEDY: At -- I need to complete my question.

24 BY MR. KENNEDY:

25 Q At UTC time, I believe it was 21:25, which Hawaii Standard

1 Time would be 11:25 in the morning?

2 THE COURT: The objection is sustained.

3 BY MR. KENNEDY:

4 Q You were not provided with information as to the location  
5 of that vessel on July 30th, correct?

6 MS. AFFINITO: Objection.

7 THE COURT: The objection was sustained.

8 MR. KENNEDY: All right. So --

9 BY MR. KENNEDY:

10 Q Now, when we return to 2-115 -- and if we could go back to  
11 page 2 -- there is a -- in the lower left-hand area there is an  
12 indication of a cell -- a cell site and sector, correct?

13 A Correct.

14 Q And then a arrow which shows generally the direction of  
15 which that cell tower and sector obtain data, correct?

16 A Correct, the direction which those signals propagate.

17 Q And each tower oftentimes, as we turn to -- if we can go  
18 to page 3. Each tower, as you've represented here, oftentimes  
19 has multiple sectors, correct?

20 A Correct.

21 Q And for instance, we'll see later some of the sectors can  
22 have a broader area, correct? As I'm demonstrating with my  
23 hands? In terms of the access?

24 A Are you asking about the wedges?

25 Q Yes. Mm-hmm.

1 A So each of those wedges represent the 120 approximate  
2 degrees.

3 Q All right.

4 A But those arms on those wedges, those are just guidelines.  
5 They are not -- they're not lines drawn on the ground to where  
6 radio waves stay inside.

7 Q And so a cell phone can connect to any sector based upon  
8 what you said was: If your phone is on, it's looking for the  
9 best tower, the best sector and the best signal, correct?

10 A The tower and sector that provide the best signal, yes,  
11 sir.

12 Q And so it doesn't care where it goes to on the tower,  
13 right?

14 A Not as long as it has the best signal.

15 Q And whatever sector on that tower has the best signal at  
16 that moment is where it connects, correct?

17 A That's what I would expect, yes.

18 Q And so what you're telling us in terms of the testimony  
19 here is that when you say you would expect to find it in a  
20 location, that's based on generally, correct?

21 A Correct.

22 Q But at any given time a cell phone can connect to any  
23 sector on that tower if that tower has the best signal and it  
24 has the best frequency for that phone at that time, correct?

25 A I don't know if frequency necessarily plays into that

1 scenario, but the cell phone is going to choose the tower and  
2 sector that provided the best signal.

3 Q All right. And so these are approximations in terms of  
4 where you might expect the phone to be, correct?

5 A Correct.

6 Q All right. Now, if we go to the fourth page.

7 Now, these are locations for AT&T cell sites and T-Mobile  
8 cell sites, right?

9 A Correct.

10 Q All right. In a portion of the island, correct?

11 A That's correct, yes.

12 Q All right. Now, I want to talk to you a little bit  
13 about -- if we move to page 5, and then we move to page 6. All  
14 right.

15 Now, pages 6, 7, and 8 represent information regarding the  
16 9223 number, correct?

17 A That's correct.

18 Q And 6 has voice calls, correct?

19 A That's correct, yes.

20 Q And if we move to page 7, we have what are SMS  
21 information, correct?

22 A Correct.

23 Q Commonly referred to as text messaging?

24 A That's correct.

25 Q All right. And with respect to page 8 we have data,

1 correct?

2 A That's correct.

3 Q All right. So data can be the following. If I have a  
4 cell phone and I'm using an app on my phone, that would be  
5 recorded as data, correct?

6 A It should be, yes.

7 Q All right. On iPhones, iMessaging is data, correct?

8 A That's correct.

9 Q And so iMessages between iPhones are recorded as data, not  
10 as text message, correct?

11 A That would be correct.

12 Q All right. In any of your -- was there a point in time  
13 where you plotted all voice information with respect to the  
14 time period that you were looking at here?

15 A All of it?

16 Q Yes.

17 A I don't believe so.

18 Q All right. Was there a time period where you plotted all  
19 the text messages between 8:00 o'clock and 4 -- I believe you  
20 said 4:45 on the 31st?

21 A Correct. I did not.

22 Q And was there any time where you plotted all the data,  
23 including iMessages, between 8:00 a.m., July 30th, and 4:45  
24 July 31st?

25 A iMessages wouldn't be distinctively identified in a data



1 report. But the answer to your question is, no, I didn't plot  
2 all the data points, no.

3 Q All right. So what we have here is an analysis of not all  
4 the voice, text, and data between 8:00 a.m. on July 30th and  
5 4:45 p.m. on July 31st, correct?

6 A Are you talking about the snippets in these slides?

7 Q Yes.

8 A The -- for purposes of making it fit on the slides, these  
9 are the excerpts that I used. So that's -- I believe that's  
10 correct, yes.

11 Q All right. And so the excerpts that you've shown here do  
12 not also provide all the, say, data entries for all of the  
13 times, correct?

14 A Not what's before and after in these slides.

15 Q All right. Okay. Now, we're talking about the time  
16 period between 4:15 a.m. until 1:06:17 p.m. on July 30th.

17 Did your analysis show any connections between a cell  
18 tower?

19 A Are you talking about for data, sir?

20 Q I'm talking about --

21 A On page --

22 Q I'm talking about just generally. So we can take this  
23 down for a second. And I'm just going to ask you the question.

24 Between 8:00 -- between 4:15 a.m. and 1:06:17 p.m., on  
25 July 30th, your analysis showed no connections to a cell tower?

1 A For the data, that -- I believe that's correct.

2 Q All right. And I think we've established during that time  
3 that if the phone is off, it makes no connection to a cellular  
4 tower, correct?

5 A Correct.

6 Q The phone died, doesn't have power, it makes no  
7 connection, correct?

8 A That's correct.

9 Q And the phone is off and recharged, as it's charging it  
10 makes no connection to a cellular tower?

11 A If the phone is off it's not connected to the network.

12 Q The fourth one is if it's in airplane mode?

13 A I believe you hit all the ones, but, yes, the off, either  
14 manual or a phone dying, airplane mode, or outside that network  
15 coverage.

16 Q All right. Now, with respect to (808) 476-9223, I want to  
17 ask you about the time period between 1:06:17 p.m. and  
18 1:39 p.m. All right?

19 A Okay.

20 Q Now, during that time the 9233 [verbatim] is connecting  
21 two cell towers, correct?

22 A I would have to look at my -- the records instead of going  
23 off memory on this.

24 Q All right. Do you have your records of -- let me ask you  
25 this. Do you have anything with you other than the summary

1 that you provided?

2 A No, I don't.

3 Q Okay. Well, let's pull up the 215 -- two, one, one, five  
4 and go to the time periods.

5 MR. KENNEDY: And let's start at page 8.

6 BY MR. KENNEDY:

7 Q Do you have an indication on here that the 9233 -- excuse  
8 me -- 92 -- let me make certain -- 9223.

9 Did you see it connecting to a cell tower at 1:06:17 p.m.  
10 on July 30th?

11 A I'm sorry. You said 1:06:17 --

12 Q Correct.

13 A -- p.m.?

14 Q P.m. So 1:00 in the afternoon at 06:17.

15 A I don't believe that's reflected in this excerpt.

16 Q Okay. So --

17 A Oh, I'm sorry. 1:06:17. Yes, sir, up at the top.

18 Q All right.

19 A Yes. Sorry.

20 Q And then between 1:06:17 p.m. and 1:39 p.m., did you see  
21 that multiple towers were being connected?

22 A From the data?

23 Q Yes.

24 A So the last time, the last recorded cell site information  
25 on the top portion is up until 1:06 p.m., and then it doesn't

1 start again until 3:48 p.m. down at the bottom.

2 Q All right. Let's move back to page 7.

3 Do you see a connection with respect to SMS between

4 1:06:17 p.m. and 1:39 p.m. on July 30th?

5 A Not 1:06:17 p.m., no.

6 Q All right. And do you see others up to 1:39?

7 A So the top portion covers up until 1:06.

8 Q All right. So your -- you don't plot anything here

9 showing any connections between 1:06:17 p.m. and 1:39 p.m.?

10 A From the voice, not -- that -- I don't believe that's

11 reflected on the SMS portion here.

12 Q All right. Let's move to page 6.

13 Do you see connections between 1:06:17 p.m. and 1:39 p.m.

14 on what is shown on page 6 of 2-115?

15 A No connection for that specific time.

16 Q Okay. So in terms of your analysis, did you take a look

17 during that time of those connections?

18 A I don't recall.

19 Q All right. You did not see a movement from west to east

20 on towers between those times?

21 A And what were the time ranges again?

22 Q 1:06:17 p.m. to 1:39 p.m.

23 A We're just talking about voice or the -- all the records

24 in general?

25 Q I'm talking about all the --

1 A Yeah.

2 Q You have divided it up between voice, data, and SMS. What  
3 I'm talking about is the times that that phone is connecting.  
4 Correct?

5 A Correct.

6 Q All right. And by looking at the times it's connecting  
7 you can see a pattern, right?

8 A Yes.

9 Q If they are connecting to towers that are in a direction,  
10 you can see movement, right?

11 A Correct.

12 Q All right. And so in your analysis, I'm asking you  
13 whether, between 1:06:17 p.m. and 1:39 p.m., you saw a  
14 west-to-east direction between downtown Honolulu, out to where  
15 we see the Kahala-Waialae area with respect to 9223?

16 A I don't recall just looking at this excerpt from the PDF  
17 version of AT&T records.

18 Q Okay. Do you recall --

19 MR. KENNEDY: Let's move to, I believe it's --

20 All right. Let's at least move to page 9. Okay.

21 BY MR. KENNEDY:

22 Q So page 9 has SMS information, correct?

23 A Correct.

24 Q You're not aware of whether there was any data information  
25 or voice information at 1:06?

1 A Not independently off the top of my head, no.

2 Q Okay. So these have been selected. You're not aware of  
3 in your analysis that at 1:06 p.m. the phone was connecting in  
4 this area (indicates)?

5 A I don't have an independent recollection of that, no, sir.

6 Q All right. Okay. And then you've depicted in terms of  
7 time that the phone is here, correct? In this general area,  
8 correct?

9 A During the times that are illustrated in the call out box  
10 in the upper right, yes.

11 Q All right. And then we move here, correct (indicates)?

12 A So you're going from 1 to 2, correct?

13 Q Yes. And 2 has a 320-degree. Can you explain that to the  
14 jury?

15 A Sure. So again, the center of the sector is known as the  
16 azimuth. That is the direction -- I'm sorry. That's the  
17 direction in compass degrees that the sector is facing. So for  
18 this particular tower and sector that was used for this  
19 respective event, the center of that sector is facing three --  
20 approximately 320 degrees.

21 Q All right. So if a cell phone is located here,  
22 hypothetically, you cannot eliminate that tower as a connection  
23 for that cell tower, correct?

24 A So you're asking me if a cell -- hypothetically if a cell  
25 phone was on the right side of that?

1 Q Right, on the highway.

2 A Mm-hmm.

3 Q On the right side. You cannot eliminate this cell tower  
4 as having the best tower, best signal for that cell phone,  
5 correct?

6 A Not just based on the records, these records. I mean, I  
7 would not expect to find it there, at least on an initial  
8 serving cell. But if I understand what you're asking me, is  
9 whether or not I would expect to find the device on the right  
10 side of that tower and sector that you've specified?

11 Q Correct.

12 A No, not based on my training and experience, no, I would  
13 not expect to find it on that side.

14 Q I understand that with expect to find. But you cannot  
15 eliminate that a cell phone on this highway, on this location  
16 (indicates) connects with that tower, correct? That cannot be  
17 eliminated, can it?

18 A I would not expect to find it there.

19 Q well, I understand that. But it can't be eliminated, can  
20 it?

21 A I don't know if I can even answer that question, sir.  
22 Sorry.

23 Q It's just not that precise, is it?

24 A well, I wouldn't necessarily go so far as to say that the  
25 towers and sectors providing the best signal to a phone should

1 be precluded because that is certainly the technology but --

2 Q Right.

3 A -- your question, I don't assume --

4 Q The question is simply that if this is the best tower  
5 providing the best sector on there, at the best signal, that  
6 phone can connect to it, correct? whether you expect to find  
7 it there or not?

8 A I couldn't answer that. I'd be speculating on that.

9 Q All right. So if you have to speculate, you can't  
10 eliminate it, correct?

11 A I don't know if I'd even say that.

12 Q All right. Now, we can see -- let me ask you this  
13 question.

14 MR. KENNEDY: If we can pull up -- I believe it's in  
15 evidence -- 2-075?

16 THE COURT: Go ahead.

17 BY MR. KENNEDY:

18 Q You can see the time is July 30th of 2016, at 12:56:52.

19 A I see that on the screen, yes, sir.

20 Q All right. If we can -- were you asked to take a look at  
21 any cell site location information regarding this particular  
22 van in the Hawaii Kai area at that time?

23 A This is the first time I'm seeing this.

24 Q All right. So you were not asked to take a look at cell  
25 site location information that would be associated with



1 12:56:52 on July 30th of 2016, in the Hawaii Kai area, correct?

2 A Not that I have any independent recollection of, no.

3 Q All right.

4 MR. KENNEDY: If we can take that down. If we can go  
5 back to 2-115, page 9.

6 BY MR. KENNEDY:

7 Q We can see that the phone 9223 at 1:11:23, on July 30th of  
8 2016, is connecting with this tower (indicates), correct?

9 A Correct.

10 Q At -- at 1:32 p.m. it is connecting with this tower  
11 (indicates), correct?

12 A Correct.

13 Q At -- over here on 3, at 1:39, there is a phone call,  
14 correct?

15 A That's correct, a voicemail, yes, sir.

16 Q A voicemail?

17 A Yes, sir.

18 Q And I understand that this purple area represents Delia  
19 Miske's residence, correct?

20 A Correct.

21 Q And you understand that's in the Hawaii Kai area?

22 A Correct.

23 Q And the photograph of the van we were looking at was at  
24 12:54?

25 A I thought it said 12:56. I'm not sure.

1 Q 56? Your memory's better than mine.

2 A I don't know about that.

3 Q 12:56, I'll take your word for it.

4 And so we can see in this time period Mr. Miske's phone is  
5 in the waialae-Kahala area, correct?

6 A It's where I'd expect to find it, yes.

7 Q And over close to where we can see on here, Diamond Head  
8 and this area there (indicates), correct? On the map?

9 A Diamond Head off to kind of down off the lower left? I --

10 Q Okay.

11 A Is that what you're asking me?

12 Q Yes.

13 A I'm sorry. Can you repeat the question? I was looking  
14 for Diamond Head when you were asking.

15 Q So the locations here (indicates) show --

16 A Mm.

17 Q -- at the times on page 9 where 9223 is located, correct?

18 A Those are the towers and sectors being used by device,  
19 yes.

20 Q All right. And you gave some testimony earlier that you  
21 would expect it to be somewhere in the waialae-Kahala  
22 neighborhood, right?

23 A That's where I'd expect to find it, yes.

24 Q All right. Not in the Hawaii Kai area, correct?

25 A No, sir.

1 Q All right.

2 And I -- and I take it that other than the ones we have  
3 seen in your summary, there is no connections by the phones in  
4 the Hawaii Kai area, correct?

5 A I'm sorry. That -- can you ask that again? I don't  
6 under -- are you talking about a specific device or all the  
7 devices?

8 Q Well, let me ask you this.

9 There was never a plot that showed, at any time, that 9223  
10 was in -- connected with any cell tower in the Hawaii Kai area?

11 A In my summary, I don't believe so.

12 Q Or any other of all the documents that you looked at,  
13 correct?

14 A I -- I don't remember off the top of my head.

15 Q Okay.

16 All right. So there's another time period between  
17 1:39 p.m. and 3:05 p.m. on July 30th where there was no  
18 connection to a cell tower for the 9223 number. Do you recall  
19 that?

20 A That sounds familiar.

21 Q All right. So we've talked about the times that -- how  
22 that occurs. That can occur when someone's at a meeting and  
23 they turn their phone off, right?

24 A The phone is off, it's not connected to the network.

25 Q All right. And so we're talking about a time period of

1 about an hour and a half, correct?

2 A I don't recall the time frame exactly, but I think that  
3 sounds about right.

4 Q All right. And so then we had a time period from 3:05 to  
5 3:54 when there are connections, correct?

6 A Are you -- are we talking about all the records  
7 collectively or from the voice, data, and SMS records?

8 Q All the records collectively if we're talking -- I'm not  
9 differentiating --

10 A Okay.

11 Q -- between a voice, a data and a SMS, because you're  
12 talking about historical cell site location. So the manner in  
13 which the connection is not as important as the location is  
14 your testimony, correct?

15 A I don't understand the question. I'm sorry.

16 Q So let me --

17 A Yeah.

18 Q Let me just make it simple.

19 The -- what you plotted, you have no information about  
20 what was spoken during a voice call, correct?

21 A That is correct.

22 Q As far as the MS -- the SMS messages that are up here,  
23 there's no information about what was texted, correct?

24 A That's correct.

25 Q All right. So what you're testifying to is simply

1 where -- a location of a cell tower in connection to where a  
2 phone would be in the general area, correct?

3 A Correct, where I would expect to find a device based on  
4 the cell site location information provided in the call detail  
5 records.

6 Q All right. And so between 3:05 p.m. and 3:54 p.m., did  
7 you see in the records 9223 traveling in a east-to-west  
8 direction during that time?

9 A Not that I recall using these records, not the voice and  
10 SMS.

11 Q All right. Let's move to page 10 then.

12 MR. KENNEDY: And let me clear. There we go. Okay.

13 BY MR. KENNEDY:

14 Q During this time period, were -- there is a number of SMS  
15 messages, correct?

16 A Correct.

17 Q And these are from either outgoing or incoming to 9223,  
18 right?

19 A Correct.

20 Q And they're to 9064, correct?

21 A Correct.

22 Q And this is between 7:48 p.m., correct?

23 A Correct.

24 Q And 8:13 p.m.?

25 A Yes, sir.

1 Q The location which are shown here is the Ala Moana area  
2 and Kakaako, correct? And then perhaps a little further over  
3 into near the Children's and Discovery Center, correct?

4 A Yes, sir.

5 Q All right. These are the locations of these outgoing and  
6 incoming SMS messages from 9223 during that time period,  
7 correct?

8 A The towers and sectors being used for those, yes.

9 Q All right. There's a single number involved with those,  
10 right?

11 A That's correct.

12 Q And it's your understanding that Mr. Miske is the owner of  
13 the M Nightclub, correct?

14 A Yes, sir.

15 Q And that Jason Yokoyama is the manager or general manager  
16 of the M Nightclub?

17 A Yes, sir.

18 Q July 30th was a Saturday night, correct?

19 A I believe so.

20 Q And so there's no other communication going on that you  
21 plotted with any other individual?

22 A Not with this respective time frame.

23 Q All right. Now, if we move to slide -- I believe it's --  
24 or Number 11. Okay.

25 Now, during this time period, focusing on the top left

1 area, these are a continuation of incoming and outgoing  
2 messages between 9223 and 9064, correct?

3 A Correct.

4 Q And those are between 9223, Mr. Miske, 9064, Mr. Yokoyama,  
5 correct?

6 A Yes, sir.

7 Q All right. Now, there's an outgoing voicemail, or voice  
8 call, that Mr. Yokoyama finally makes during that time period,  
9 correct?

10 A Yes, sir.

11 Q Other than that, it's SMS messages?

12 A For 9064?

13 Q Yes.

14 A Yeah, the two entries. The one text message and then the  
15 one voice.

16 Q Okay. So a fair number of text messages from Mr. Miske  
17 and then one text message and a voice -- voice call from  
18 Mr. Yokoyama to Mr. Miske, correct?

19 A That's what's illustrated here, yes.

20 Q All right. Now, we've put up in this summary this number  
21 8799, correct?

22 A That's correct.

23 Q All right. And 8799, earlier you associated that with a  
24 Lance Bermudez, correct?

25 A 8799, that's correct.

1 Q All right. And the -- there's a voice message to a 9659,  
2 correct? Incoming voice?

3 A Incoming voice call from 9659 --

4 Q All right.

5 A -- yes.

6 Q Did you take a look at the phone number 9659 during this  
7 time period?

8 A I did not.

9 Q All right. Now, there was an SMS at 9:08:55 and a  
10 outgoing voice call at 9:25:10. Do you see those two?

11 A Yes, sir.

12 Q And I believe you were shown some documents that relate to  
13 a number (808) 479-2795, correct?

14 A Correct.

15 Q All right. And then you were independently aware, I  
16 guess, that that was a number that you associated with a Jesse  
17 Cabana, correct?

18 A Correct.

19 Q All right. Did you plot the cellular site location  
20 information for (808) 479-2795 between 8:00 p.m. on July 30th  
21 and 4:45 for July 31st?

22 A No.

23 Q All right. Now, moving to page 12.

24 All right. This is designated as the residence at 1226  
25 Kuuna in Kailua?



1 A Yes, sir.

2 Q All right. And where we can see, we've seen some  
3 depictions inside Honolulu that have a lot more cell towers,  
4 correct?

5 A That's correct.

6 Q A lot more cell sectors, right?

7 A Correct.

8 Q In an urban area, that's common, right?

9 A Yes, sir.

10 Q In an area that is not as urban, it's less common, right?

11 A That's correct.

12 Q Because the volume of calls is simply usually different?

13 A That's correct.

14 Q The volume of messaging and the volume of data that we're  
15 always getting is very different in an urban area related to  
16 areas that are not as urban, correct?

17 A Typically, yes.

18 Q So they're placing their cell towers and their cell  
19 sectors in response to the customer demand, right?

20 A Among other things, yes, sir.

21 Q All right. And so in this area, you have a line here  
22 (indicates) that is depicted in that map, which is part of  
23 2-115. Do you see that?

24 A The dotted green line thing?

25 Q Yeah, mm-hmm.

1 A I see it here, yes.

2 Q Okay. Do you know that that -- do you know what that  
3 denotes?

4 A What the green line on this map denotes?

5 Q Yes.

6 A I would guess maybe perhaps a trail.

7 Q Okay. And are you aware of -- the topography you  
8 mentioned is something that may impact what cell tower is  
9 connected, correct?

10 A Correct.

11 Q All right. Are you aware of any hills in this area  
12 (indicates)?

13 A I'm not.

14 Q Okay. Are you aware of whether this is backed -- this  
15 residence is backed up to a hillside?

16 A I am not.

17 Q Okay. So what we know is that at 11:27:33, there was a  
18 connection on this incoming call for 9223 on this particular  
19 tower (indicates), correct?

20 A That's correct.

21 Q This tower -- are you aware that for the remaining time  
22 between -- up until about 10:00 the next morning, this phone  
23 when it was on was also always connecting with this tower?

24 A I don't recall that.

25 Q Okay. So you didn't plot that in your analysis?

1 A Not in this, no, sir.

2 Q Okay. Now, if we move to page 13.

3 In this time period we're looking only at 8799,  
4 Mr. Bermudez's phone, correct?

5 A That's correct.

6 Q All right. And once again, the predominant number in  
7 terms of what you've cited as Location 1 is a number  
8 (808) 479-2795, right?

9 A That's correct.

10 Q Okay. So it's a voice call at 12:12:37, 12:12:45, and  
11 12:12:53, correct?

12 A To that number, yes, sir.

13 Q All right. And then there's a voice call to 9064?

14 A At 12:13:13, yes.

15 Q At 12:13.

16 Did you look at a number associated with 9064 in your  
17 analysis regarding Mr. Bermudez and this area at that time?

18 A I believe so.

19 Q All right. And so that was a voice call back to  
20 Mr. Yokoyama at 9064?

21 A For that 12:13:13?

22 Q Yes.

23 A You're asking me if I mapped the -- the other side of that  
24 call?

25 Q Yes.

1 A I don't believe -- I don't believe so, but I can't recall.

2 Q All right. At that time period, do you have any opinion  
3 as to where Mr. Yokoyama's phone that you've assist --  
4 associated 9064 is located at that time?

5 A Not based on this slide, no.

6 Q Okay. All right.

7 But you have data which would show you that in what you  
8 reviewed, correct?

9 A I don't recall. I thought that I had mapped in one of the  
10 other slides locations that were for Mr. Yokoyama or in the  
11 9064 phone during the time frame.

12 Q Okay. Well, let me clear that up, that you had mapped it  
13 is when you were actually applying it to your opinion here,  
14 correct?

15 A To what is being illustrated, that -- and so that's not  
16 illustrated here.

17 Q Well, you got the raw data for that phone, for 9064, that  
18 would cover the time period 8:00 o'clock in the morning on  
19 July 30th through 4:45 on July 31st, correct?

20 A It did cover that time frame, yes, sir.

21 Q All right. And so if we want to know the answer to that,  
22 you have the data; you just didn't apply it in terms of your  
23 analysis here, correct?

24 A I'd have to go back in and look at it, but -- yes.

25 Q Okay. How about the -- it appears there's an incoming

1 voice at 12:16 and 12:20 to the 8799 phone. And it's the same  
2 number, (808) 224-6801.

3 Did you do any analysis with that particular number?

4 A Not for the 6801 number, no.

5 Q Okay. All right.

6 And during this time period, you did not see any  
7 connection ever between 8799 and 9223, correct?

8 A I don't recall.

9 Q You don't recall?

10 A I don't recall seeing a connection between those two  
11 numbers during that time frame.

12 Q Or any time period, correct?

13 A I believe that's correct.

14 Q All right.

15 MR. KENNEDY: Now, if we move on to the next slide,  
16 which is I believe -- this is button's in the air. There we  
17 go.

18 BY MR. KENNEDY:

19 Q During this time period, once again, as you pointed out  
20 before, 1, 2, and 3 is sort of duplicative of what we just  
21 looked at, right?

22 A That's correct.

23 Q Okay. And so during the time period with 4, 4, 5, and 6,  
24 there are a number of different incoming, outgoing voice or SMS  
25 messages, correct?

1 A That's correct.

2 Q And none of those numbers relate to any of the other three  
3 phones that you analyzed, correct?

4 A That's correct.

5 Q They're all independent numbers while this travel from  
6 east, Hawaii Kai, during the time period here (indicates), and  
7 then up to here (indicates), correct?

8 A Correct.

9 Q So there's no connection with the phone other than the one  
10 that we looked at in the previous one, at 12:13:14 a.m.,  
11 incoming at that time, which is -- in red, which is associated  
12 with the 9064, correct?

13 A That's correct.

14 Q All right. Now, in terms of this summary, you said that  
15 you analyzed information all the way up to 4:45 on July 31st,  
16 correct?

17 A Yes, sir, for the most part.

18 Q All right. In the summary, there is no information with  
19 respect to the phone number 9223 for Mr. Miske on July 31st  
20 that you had plotted anywhere during that day, correct?

21 A Correct.

22 MR. KENNEDY: Nothing further, Your Honor. Thank  
23 you.

24 THE COURT: Ms. Affinito.

25 ////

1 REDIRECT EXAMINATION

2 BY MS. AFFINITO:

3 Q So I just want to go over a few points.

4 So I guess, well, first, let's start with where we just  
5 ended off.

6 MS. AFFINITO: If we could pull up Exhibit 2-115,  
7 page -- let's do page 13.

8 BY MS. AFFINITO:

9 Q Okay. So you were just asked about this 12:13 a.m. call.  
10 It's an outgoing voice call from Lance Bermudez's phone to  
11 Jason Yokoyama's phone; is that correct?

12 A Correct.

13 Q Okay. So this 9064 number to which it's connecting is  
14 Jason Yokoyama's phone?

15 A It's my understanding, yes.

16 Q Okay. And so you were asked about the location of Jason  
17 Yokoyama's phone; is that right?

18 A Correct.

19 Q Okay. So on this slide, it does not depict Jason  
20 Yokoyama's -- the location of Jason Yokoyama's phone at the  
21 time of this 12:13 a.m. call, correct?

22 A Not at that exact time.

23 Q Okay. So -- but you can see here Lance Bermudez's phone  
24 connecting to towers in this Hawaii Kai region, correct?

25 A Correct.

1 Q Okay. So if we could go to page 14.

2 So now I want you to look at this number here (indicates).

3 So this is Jason Yokoyama's phone at 12:13 a.m., correct?

4 A Correct.

5 Q So this is that same call we were just looking at on -- on  
6 page 13; is that right?

7 A That would be how I would interpret that, yes.

8 Q Okay. So does this slide show the location of Jason  
9 Yokoyama's phone during that call?

10 A Yes.

11 Q Okay. And where is Jason Yokoyama's phone?

12 A It's illustrated with the red wedge facing up. So  
13 downtown Honolulu area, facing up towards the M Nightclub  
14 banner.

15 Q Okay. And so that's this area? I'm just circling here,  
16 in town, in Honolulu?

17 A That's correct.

18 Q Okay. And this is -- this is a voice call between the two  
19 of them, correct?

20 A That's what it looks like, yes.

21 Q And at that time, at this 12:13 a.m. time, where is Lance  
22 Bermudez's phone connecting to towers?

23 A It would be over in the Hawaii Kai area.

24 Q Okay. So is this the far right region where we see the --  
25 the 1, 2, and 3 designations?



1 A Correct.

2 Q Okay. All right. So let's -- let's go to -- I guess,  
3 first let's go to page 4 -- 3. Excuse me.

4 So you were asked about, I guess, the sectors. How many  
5 sectors does each tower have?

6 A Most towers utilize a three-sector configuration.

7 Q Okay. And you -- would you expect to find a phone  
8 connecting to, I guess, the -- the opposite sector from which  
9 the phone is located?

10 A When you say "opposite," obviously it'd be adjacent.

11 Q Yeah -- so I guess if a phone was, for example -- I guess  
12 here, if we -- if the phone was here at 35th and Kensington on  
13 this map, would you expect it to connect to a sector over here  
14 in the lower left or over here in the lower right?

15 A I would not expect it to.

16 Q Okay. So would you expect it to connect to the sector, I  
17 guess, in the -- the northern direction?

18 A That's where I would expect to find the device, somewhere  
19 within the tower and sector that provides coverage to that  
20 area.

21 Q Okay. And do phones typically connect to the sector --

22 MS. AFFINITO: Never mind. Scratch that.

23 BY MS. AFFINITO:

24 Q Now, why don't we look at -- so let's -- let's look at  
25 page 8.

1           So you were asked about the time periods when Michael  
2 Miske's phone was connecting or not connecting to the network.  
3 Do you recall that?

4     A     Yes.

5     Q     Okay. So between 1:06 p.m. and 3:48 p.m., in that middle  
6 portion of the day, is Michael Miske's phone connected to  
7 AT&T's network?

8     A     I -- so after 1:06 and up until 3:48?

9     Q     Yes.

10    A     I believe so, but that -- that's not reflected here.

11    Q     Okay. So -- but based on your analysis where you reviewed  
12 the data, the call records and the SMS call records, is it your  
13 understanding that Michael Miske's phone was connected to  
14 AT&T's record [verbatim] between 1:06 p.m. and 3:48 p.m.?

15    A     Yes.

16    Q     Okay. And then between 3:48 p.m. and 7:47 p.m. his phone  
17 was not connected to AT&T's network?

18    A     That's what it appears, yes.

19    Q     Okay. And before 1:06 p.m. and going back until  
20 4:15 a.m., it also was not connected to AT&T's network,  
21 correct?

22    A     That's -- that's the way I'm interpreting the records  
23 based on the lack of records, yes.

24    Q     Okay. So when we're looking at this -- there aren't  
25 records that show activity or cell location information between

1 4:15 a.m. and 1:06 p.m.?

2 A No. It just goes from line 4070 down to 4071, and then  
3 you can see that, the time change --

4 Q Okay.

5 A -- the break in time.

6 Q And actually, if we look -- so just -- just looking -- so  
7 this is -- this is data usage, correct?

8 A Yes.

9 Q So but if we keep that same 4:15 a.m. to 1:06 p.m. time  
10 frame in mind, if we go back a page to page 7, is there  
11 location data during that time period for SMS usage, 4:15 a.m.  
12 to 1:06 p.m.?

13 A So the -- in the top part, the last recorded event with  
14 cell site location is at 1:15 a.m.

15 Q So that's before 4:15 a.m.?

16 A That's correct.

17 Q Okay. So here, this still shows no activity between  
18 4:15 a.m. and 1:06 p.m.?

19 A Correct.

20 Q Okay. And if we go back one more slide, to page 6, this  
21 is the voice usage. Does this show -- did the records for the  
22 call activity show activity between 4:15 a.m. and 1:06 p.m.?

23 A They did not 'cause the first voice activity with cell  
24 site location isn't until 1:39.

25 Q Okay. So the earliest you saw activity on the phone, I

1 guess during this time frame when it connects back, is at  
2 1:06 p.m.; is that right?

3 A For?

4 Q For just across the board for call, text, and data?

5 A I believe that's correct --

6 Q Okay.

7 A -- yes.

8 Q well, let's go back to page 9. Sorry, page 8.

9 so the -- there's data usage location information at  
10 1:06 p.m., correct?

11 A Correct.

12 Q And this is for Michael Miske's phone?

13 A That's correct.

14 Q Okay. So you were asked about a time period at 12:56 p.m.  
15 Is there any location data at 12:56 p.m.?

16 A On the slide that we're looking at currently?

17 Q well, just generally for -- we just went over the time  
18 period when the phone's not connected to the network.

19 A Yes.

20 Q Is Michael Miske's phone connected to the network at  
21 12:56 p.m.?

22 A It doesn't appear to be. There's no records here.

23 Q So would you expect to have location information --

24 MS. AFFINITO: Sorry.

25 BY MS. AFFINITO:

1 Q So would you expect to see location information for  
2 Michael Miske's phone at 12:56 p.m. when it's not connected to  
3 the network?

4 A Not if it's not connected to the network.

5 Q Okay. And then if we go to the next slide, page 9.  
6 So this shows -- it starts at 1:11 p.m., correct?

7 A Correct. This slide, yes.

8 Q Okay. And these are Michael Miske's records, texts and  
9 calls, correct?

10 A Along with the 9064, that's correct.

11 Q Okay. So -- but these first three right here (indicates)  
12 are all Michael Miske's phone?

13 A Yes.

14 Q Okay. And so this is -- at 1:11 p.m., this is about 15  
15 minutes after 12:56 p.m., correct?

16 A I would agree with that, about.

17 Q Okay. So about 15 minutes later Michael Miske's phone is  
18 connecting to towers in the Waialae-Kahala region?

19 A Yes.

20 Q Okay. And again, I guess you were asked about this, but  
21 based on the -- the side of the towers to which Michael Miske's  
22 phone is connecting and the towers themselves, where would you  
23 expect to find Michael Miske's phone during this time period?

24 A I would expect to find it within the open part of those  
25 wedges.

1 Q Okay. So is that sort of in this middle region here  
2 (indicates), around where the red wedge is?

3 A Correct.

4 Q Okay. So you wouldn't expect to find him over here  
5 (indicates)?

6 A Not based on my --

7 Q In the ocean?

8 A Not based on my training and experience, no, I wouldn't  
9 expect to find the device over there --

10 Q Okay.

11 A -- for this particular event.

12 Q All right. And you wouldn't expect to find it, for  
13 example, over here by the -- the flag for Delia Miske's  
14 residence?

15 A Not using that tower and sector illustrated in 2, no.

16 Q Okay.

17 MS. AFFINITO: Nothing further.

18 THE COURT: Mr. Kennedy, anything else?

19 RECROSS-EXAMINATION

20 BY MR. KENNEDY:

21 Q If we could pull up 2-115, page 9, we were just looking  
22 at.

23 Sir, staying within the expected areas of location  
24 historically, 1 designates a time at 1:11 correct?

25 A Correct.

1 Q And then 2 designates a time at 1:32, correct?

2 A Correct.

3 Q And then 3 designates a time at 1:39, correct?

4 A That's correct.

5 Q And so we have travel this direction followed by travel  
6 back in this direction, correct?

7 A I don't know if I would call it travel, but I would be --  
8 I would say that based on my experience that this is indicative  
9 of movement.

10 Q Movement. In the directions that I indicated on the  
11 screen, correct?

12 A Not necessarily, but I would expect to find it in that  
13 device -- or in that area that you just specified, I would  
14 expect that device was moving within that -- those areas of  
15 coverage.

16 Q All right. And so the areas of coverage that you've  
17 designated for 2 is here (indicates), correct?

18 A This specific tower and sector, sir?

19 Q Yes.

20 A No. I would expect that coverage area to be -- I'm sorry.  
21 Mine doesn't work very well.

22 Q Okay.

23 A I would expect 2 to be this area (indicates).

24 Q Okay. And then the area of coverage for 1 and 3, could  
25 you do what you would expect?

1 A Sure. I would expect that that is (indicates).

2 Q And so it could designate movement, correct?

3 A It's illustrative of movement, yes.

4 Q It could designate stationary and just the strongest  
5 signal that would be available that the cell phone would  
6 connect to in this area could be either 1, 3, or 2 at any given  
7 time in that time period, correct?

8 A It's possible. The device would need to be somewhere in  
9 that overlapping coverage between those three towers and  
10 sectors.

11 Q All right. And if I -- these are the lines that you just  
12 drew (indicates), correct?

13 A Yes.

14 Q All right. And so if I take that away, that would be  
15 right in the waialae-kahala area, correct?

16 A Yes, sir, that, right in this area (indicates). But this  
17 is obviously not to scale.

18 MR. KENNEDY: Nothing further. Thank you, Your  
19 Honor.

20 THE COURT: All right. Mr. Sagiao, you may step  
21 down.

22 Thank you, sir.

23 (Witness excused.)

24 (End of partial transcript.)

25 \* \* \* \* \*



1 COURT REPORTER CERTIFICATE

2 I, Ann B. Matsumoto, Official Court Reporter, United  
3 States District Court, District of Hawaii, do hereby certify  
4 that pursuant to 28 U.S.C. Sec. 753 the foregoing is a  
5 complete, true, and correct transcript of the stenographically  
6 recorded proceedings held in the above-entitled matter and that  
7 the transcript page format is in conformance with the  
8 regulations of the Judicial Conference of the United States.

9 DATED at Honolulu, Hawaii, November 4, 2024.

10

11

12

13

/s/ Ann B. Matsumoto

ANN B. MATSUMOTO, RPR

14

15

16

17

18

19

20

21

22

23

24

25